

Tax Expenditure Budget

While taxes are an essential source of revenue for all state governments, the manner in which they are imposed varies widely from state to state. In its simplest form, a tax is an across-the-board levy on a base, such as income, to which a specific rate applies and for which no modifications exist. Taxes are rarely levied in this manner, however. Instead, most state tax codes incorporate a number of exemptions, deductions, credits, and deferrals designed to encourage certain taxpayer activities or to limit the tax burden on certain types of individuals or endeavors. Known as "tax expenditures", these provisions can have a significant impact on state tax revenues.

This document offers a summary of the tax expenditures affecting three taxes from which Massachusetts derives the bulk of its revenues: the personal income tax, the corporate excise, and the sales and use tax. It also provides revenue estimates for each tax expenditure, as mandated by Massachusetts state law. Organized into five separate sections, this study analyzes all aspects of Massachusetts tax expenditures. Part I contains a detailed explanation of how we identify and estimate the costs of tax expenditure provisions in the tax code. In the next sections (Parts II - IV), we have provided detailed information about each of the three major tax types, including an explanation of how each tax is calculated and the ways in which that tax's basic structure is modified to produce the various types of tax expenditures. The tax expenditures for each tax are listed after the description of the tax.

Following the expenditure listings, Part V provides three appendices. The first lists recent law changes that affect this year's tax expenditure budget; a second gives three-year tax expenditure estimates that are consistent with our most recent estimation methodology; the third is a glossary that defines terms used throughout the text. In reviewing this document it is important to remember that although a tax expenditure represents a deviation from the generally agreed-upon, or basic, structure of a given tax, determining whether a provision is a tax expenditure is not the same as making a judgment about its desirability. An element of the basic structure of a tax can be inequitable or have undesirable economic effects, just as a tax expenditure can. If so, it can be changed by legislative action just as a tax expenditure can.

The estimates of the costs of tax expenditures included in this volume are revised annually. As improved methodologies and data become available over the course of the year, some estimates may be reexamined and occasionally revised.

What Are Tax Expenditures?

Tax expenditures are provisions in the tax code, such as exclusions, deductions, credits, and deferrals, which are designed to encourage certain kinds of activities or to aid taxpayers in special circumstances. When such provisions are enacted into the tax code, they reduce the amount of tax revenues that may be collected. In this sense, the fiscal effects of a tax expenditure are just like those of a direct government expenditure. Some tax expenditures involve a permanent loss of revenue, and thus are comparable to a payment by the government; others cause a deferral of revenue to the future, and thus are comparable to an interest-free loan to the taxpayer. Since tax expenditures are designed to accomplish certain public goals that otherwise might be met through direct expenditures, it seems reasonable to apply to tax expenditures the same kind of analysis and review that the appropriations budget receives.

It is essential to distinguish between those provisions of the tax code that represent tax expenditures and those that are part of the "basic structure" of a given tax. The basic structure is the set of rules that defines the tax; a tax expenditure is an exception to those rules. In general, most taxes have a series of features that define their basic structure. These features are:

1. A base, on which the tax is levied, such as net income, or a particular class of transactions;
2. A taxable unit, such as a person or a corporation;
3. A rate, to be applied to the base;
4. A definition of the geographic limits of the state's exercise of its tax jurisdiction; and
5. Provisions for the administration of the tax.

Defining the Basic Tax Structure

A tax expenditure is a deviation from the generally agreed-upon, or basic, structure of a given tax. For example, the base of the sales tax includes all retail sales to final consumers. The exemption for sales of energy conservation equipment is an exception, created to encourage purchases of such equipment. The sales tax that is not collected because of the existence of this exemption is a tax expenditure.

While this general definition seems straightforward enough, the task of compiling a comprehensive list of tax expenditures presents many conceptual problems. For example, some of the deductions and exemptions allowed under the tax statutes are not tax expenditures. The broad category of income tax deductions allowed for business expenses is not listed as a tax expenditure. Since the income tax is generally considered to be a tax on income net of the costs of producing that income, deductions for business expenses are taken against gross income and therefore occur prior to calculation of the tax base. In addition, tax provisions reflecting constitutional prohibitions, such as the prohibition on taxation of sales to the federal government, are considered parts of the basic tax structure and therefore are not properly considered tax expenditures. These distinctions are fairly simple, but more complex analytical questions quickly arise.

For example, deductions for the depreciation of property and equipment used in a trade or business are considered part of the basic tax structure because the use of productive assets is a legitimate cost of doing business. However, federal depreciation rules allow larger depreciation deductions in the early years of a property's useful life. These accelerated depreciation rules could be viewed as properly reflecting changing notions of obsolescence and thus as part of the basic tax structure; or the faster rates of depreciation could be considered a special adjustment in the tax base designed to provide an incentive for investment, and therefore a tax expenditure. Indeed, past federal tax expenditure budgets prepared by the Congressional Budget Office and versions prepared by the Treasury Department have disagreed on exactly this issue.

We have adopted the point of view that accelerated depreciation is a tax expenditure. Although accelerated depreciation still allows the same total deduction for a piece of property; the rate of depreciation allowed in the early years is faster than would be permitted under traditional accounting principles. Generally, revenue cost estimates in this document for tax expenditures associated with accelerated depreciation rely on assumptions used in congressional federal tax expenditure analysis concerning ordinary depreciation rates.

We have chosen to view the rules for personal exemptions and for no tax status in the Commonwealth's personal income tax as provisions which help to define the income tax base, and thus as a part of the basic structure of the tax (much as the progressive rate structure of the federal income tax, which similarly reduces the tax burden on low-income people, is a part of its basic structure). The base of the tax is defined as net income above what is required for subsistence. Since personal exemptions help define the amount of income needed for subsistence, and therefore the base, they should not be classified as tax expenditures. According to this reasoning, exemptions allowed for dependents would also be considered part of the basic tax structure, since subsistence requirements increase with the size of the taxpayer's household. However, we note that this view of the tax structure does not always lead to easy conclusions. First, taxpayers are allowed exemptions for dependents even if those dependents have their own income and take personal exemptions for themselves. We have treated the use of the dependents' exemption as a tax expenditure. Second, the fact that the no tax status amount is greater than the personal exemption suggests that the intent behind the no tax status and personal exemptions goes beyond simple definition of an income base. Although personal exemptions and the no tax status are not listed in this document as tax expenditures, estimates for the revenue losses associated with these provisions are provided in an endnote.

The sales tax presents the most difficult case. The sales tax statute and its legislative history indicate that the established base of the tax is all "retail" sales. At a minimum, the sales tax exemptions for business purchases of component parts and of products to be resold appear to be provisions that help define which sales are considered non-retail sales, and therefore should not be classified as tax expenditures. However, it is difficult if not impossible to decide which other sales tax exemptions might also cover non-retail sales. For example, manufacturing companies are allowed an exemption from the sales tax for purchases of machinery used in the production process. Since this machinery is not a direct component part of any product being manufactured and is not purchased simply to be resold, it could be argued that the machinery purchase is a retail sale and that the machinery exemption is a tax expenditure. Others would argue that because these purchases are not purchases by the final consumers of an end product, and because they represent legitimate business expenses, these sales tax exemptions should not be considered tax expenditures.

As stated in the introduction, the most important thing to remember is that making a judgment about whether a provision is a tax expenditure is not the same as making a judgment about its desirability. With this in mind, we have attempted to provide more rather than fewer tax expenditure estimates, so that necessary information is available for those charged with making policy judgments.

Description of the Data

This budget should be considered part of an ongoing effort to list tax expenditures, describe their characteristics, and estimate their revenue costs. Each year, we attempt to improve upon the analysis presented in the prior year's tax expenditure budget. For purposes of comparison, we have provided an appendix containing updated tax expenditure estimates for the past two years as well as for Fiscal Year 2011.

Information collected by the Department of Revenue (DOR) from Massachusetts's tax returns was an important source of data in this budget. Estimates made from these data tend to be the most reliable. Unfortunately, many tax expenditures cannot be estimated from DOR records. When a particular category of income is excluded from taxation, amounts often do not appear on tax records. This is especially likely to be the case for those tax expenditures brought about by "coupling" the state tax code to the federal code, since exclusions and some deductions are not reported explicitly, but are simply carried over to state tax calculations as part of the reporting of federal income. In such cases we have had to estimate a Massachusetts figure using national tax data, census information, sales statistics, and other information.

You will note that in several cases, this year's revenue estimate is very different from last year's. Revisions to the estimates occur for four reasons: we have new data sources; federal tax expenditure estimates on which we rely have changed; we have refined our estimation methodologies; or changes in Massachusetts tax law have modified existing estimates. In a few instances, more than one of these factors operates to explain the difference. All estimates are projections forward from a base year (which varies depending on the availability of data) to Fiscal Year 2011.

Data Limitations

There are some additional caveats that the reader should keep in mind when reading this budget. First, most revenue loss estimates have been made without taking into account how repeal of a provision might change taxpayer behavior. For example, if the sales tax exemption for a particular item were repealed, the item would become more expensive to consumers, so one would expect sales of that item to decline. The revenue gain from repealing the provision would be, therefore, somewhat less than if the level of sales for the affected items remained the same. On the other hand, some of the income not spent on that item might be spent on other taxable items. To the extent that consumers and businesses pay more taxes and have less income available for other purposes, the repeal of a tax expenditure might have much broader economic and revenue effects. Clearly, the full calculation of these effects is very difficult.

Second, the interaction among different taxes and tax expenditures may be quite complex. Repealing some tax expenditures may increase or decrease the value of others. For example, increasing the no tax status amount would mean that fewer people would pay taxes, and thus fewer people would claim other exemptions. This would reduce the revenues lost through other exemptions.

Third, the revenue cost estimates do not generally reflect compliance factors that may significantly reduce revenues available from a tax expenditure repeal. In particular, where Massachusetts tax provisions are "coupled" with federal tax rules, audits of Massachusetts's taxpayers generally compare state and federal returns. If Massachusetts tax provisions were "decoupled", taxpayers would have to make separate calculations for Massachusetts tax purposes, and these provisions would require special audit procedures. Compliance difficulties would certainly result.

And fourth, particular caution is appropriate with respect to the tax expenditure budget's totals for expenditures for particular taxes. Not only do these totals reflect the imprecision of the specific estimates, but they also omit those items for which no estimates were available. In consequence, particular totals may be substantially understated. At the same time, included in the totals, particularly with regard to the sales tax, are a number of substantial items that many analysts would regard not as tax expenditures, but rather as features of the underlying tax itself. The general approach in preparing the tax expenditure budget has been to count questionable items as tax

expenditures, so that information concerning them would be available for analysis. The result is that certain of the totals are higher than they would be under a more restrained analytic approach.

Reading the Budget

In this document, tax expenditures and cost estimates are listed according to the taxes to which they pertain: personal income, corporate excise, and sales and use. Each of the three major taxes includes an introductory section with a description of the tax, followed by a listing of the tax expenditures for that tax. Each tax expenditure item includes a brief description, the cost estimate, a statutory citation, and an indication of the tax expenditure's type. Taxes on financial institutions, utilities and insurance companies, as well as the various special excises on motor fuels, cigarettes, and alcoholic beverages are not covered in this budget.

It should be noted that there are at least three tax expenditures that are claimed in significant amounts by insurance companies and financial institutions. These are the film (or motion picture) tax credit, the low-income housing tax credit, and the historic buildings rehabilitation tax credit. Because insurance companies and financial institutions are not included in this Tax Expenditure Budget, the full aggregate values of the motion picture tax credit, the low-income housing tax credit, and the historic buildings rehabilitation tax credit credits are not shown here. However, in the each of these items in the corporate excise tax expenditure section of this document, we have indicated the total amount of tax credits claimed by insurance companies and financial institutions.

Although income from professions, trades or employment was taxed throughout the nineteenth century under the local property tax, it was not until 1916, under the authority of Article 44 of the Amendments to the Massachusetts Constitution, that the Massachusetts personal income tax was enacted as a separate tax. Because Article 44 requires that all income of the same class be taxed at the same rate, Massachusetts applies a flat tax rate regardless of total income; the federal tax structure (and that used in most states) uses graduated rates.

Generally, the Massachusetts personal income tax ties into the federal Internal Revenue Code as it was on January 1, 2005. To the extent that the Massachusetts tax takes federal law as its starting point, it adopts many federal tax expenditures.

The personal income tax is the state's largest revenue source, accounting for 58.0% of Department of Revenue tax collections in Fiscal Year 2009.

Personal Income Tax: Basic Structure

Tax Base: The personal income tax base is gross income minus the costs of producing the gross income (trade or business expenses). Massachusetts' gross income is defined as federal gross income with certain modifications. Effective January 1, 1996 it was divided into three classes: interest, dividends, and short-term capital gains ("Part A" income); long-term term capital gains ("Part C" income); and all other income ("Part B" income). Massachusetts' taxpayers are entitled to a basic personal exemption, which varies according to taxpayer status. The exempted amounts are considered to be outside the generally accepted tax base. They reflect the notion that income needed for bare subsistence should be free from tax. Thus, for the purposes of this document, these exemptions are not listed as tax expenditures. In addition, taxpayers whose income is below a specified level are entitled to "no tax status." For the same reason, this status is not listed as a tax expenditure. On the other hand, because policy makers are often interested in the effects of adjusting the dollar amounts for the personal exemptions and the no tax status, estimates are provided for them in endnote 3 to item 1.405 in the list of personal income tax expenditures.

Taxable Unit: Individuals are taxed separately, with the exception of married couples, who may file a joint return. The income of children is not aggregated with that of their parents. The income of trusts, estates and corporate trusts, including partnerships and associations with transferable shares, is also subject to the personal income tax.

Rate Structure: The rate structure has been evolving to a system where most income is taxed at the Part B rate of 5.3%. Currently, only short-term capital gains and long-term capital gains on collectibles are taxed at a different rate. The vast majority of income is linked to the Part B rate.

Prior to tax year 1999, the tax rate on interest and dividend income (one component of Part A income) was 12% compared with the Part B "earned" taxable income rate of 5.95%. Effective January 1, 2000, the rate on both Part B and the linked Part A income (Interest and Dividends) dropped to 5.85%, then to 5.60% on January 1, 2001, and to 5.30% on January 1, 2002. The rate was scheduled to decline to 5.00% on January 1, 2003; however, Chapter 186 of the Acts of 2002 ("An Act Enhancing State Revenues") delayed the final phase of the rate reduction. The estimates contained in this document assume that in tax years 2010 and 2011 the tax rates on interest and dividend income and Part B income will remain at 5.3%. All other things being equal, a reduction in tax rates -- (which are part of the basic tax structure -- has the effect of reducing the value of tax expenditures, because when tax rates decline, so does the value of any exceptions to that basic structure.

Between January 1, 1996 and January 1, 2003, Part C income, long-term capital gains, was subject to the following tax rates based on how long the assets were held:

<u>Holding Period</u>	<u>Tax Rate</u>
up to a year	12%
more than one, but less than two years	5%
more than two, but less than three years	4%
more than three, but less than four years	3%
more than four, but less than five years	2%

FY2011 Governor's Budget Recommendation

more than five, but less than six years	1%
more than six years	0%

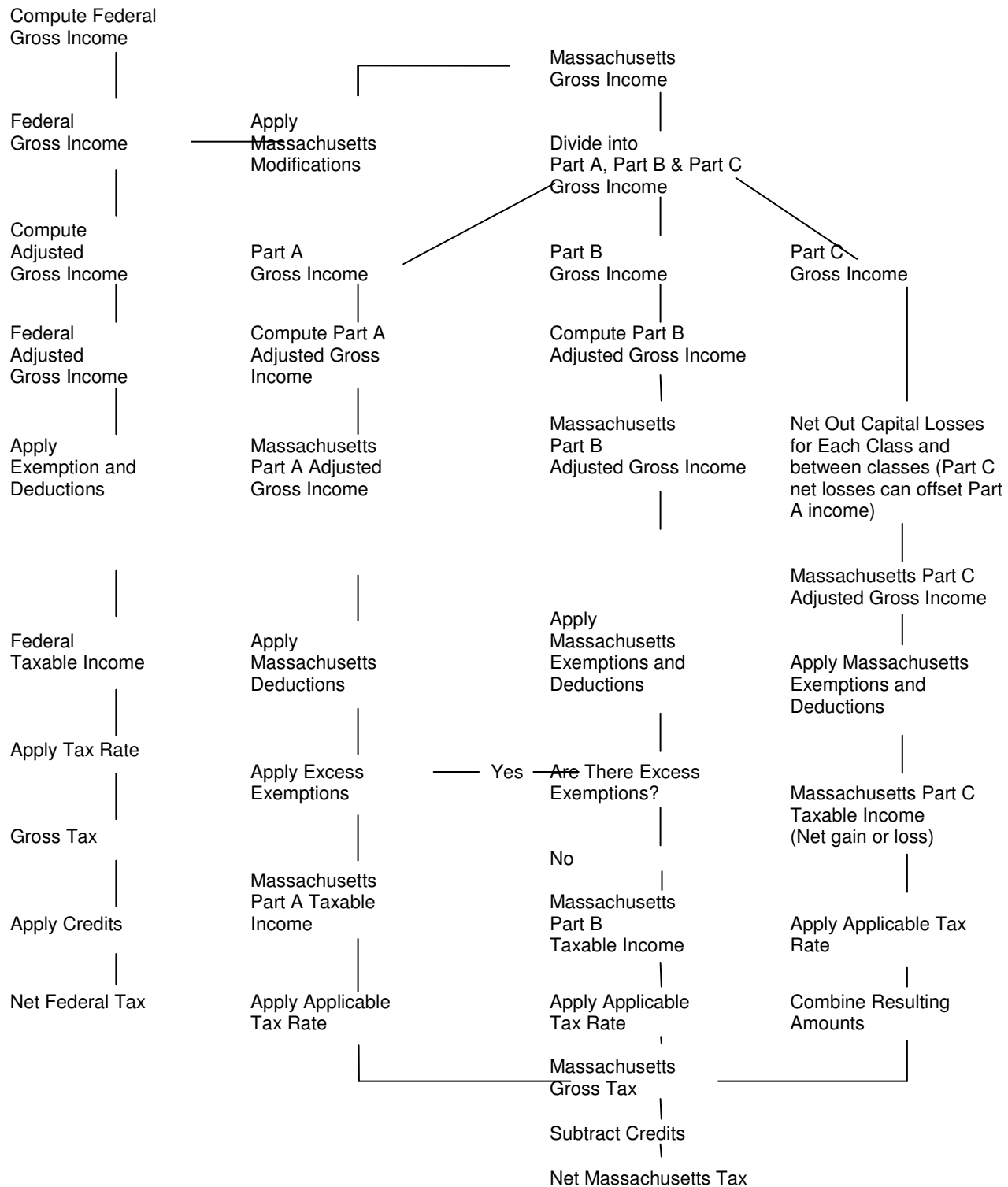
Assets acquired prior to January 1, 1996 were deemed to have been acquired on the later of January 1, 1995 or the actual date of acquisition.

Chapter 186 of the Acts of 2002 eliminated the "sliding scale" treatment of capital gains on assets held for more than one year. This was originally effective May 1, 2002; subsequent legislation changed the effective date of the tax change to apply to assets sold on or after January 1, 2003. Gains on such transactions are now taxed at the Part B rate; as noted above, the Part B rate is assumed to be 5.3% for tax years forecasted by this expenditure budget.

Taxable Period: The taxable period is one year (or less), usually the calendar year. Income may be reported according to the cash or accrual method. Where property is sold on a deferred payment basis, gains may be reported in the years the payments are received. There is no Massachusetts provision for income averaging. Net capital losses may be carried forward to future years.

Interstate and International Aspects: Residents are taxed upon their entire income, whether derived from Massachusetts' sources or elsewhere, without allocation or apportionment. Nonresidents are taxed only on income from sources within Massachusetts. A resident may take a limited credit against the Massachusetts income tax for income taxes due to other states, the District of Columbia, any territory or possession of the United States, or Canada or its provinces on any item of Massachusetts gross income.

Computation of the Personal Income Tax



Types of Tax Expenditures under the Personal Income Tax

The basic structure of the personal income tax can be modified in a number of different ways to produce tax expenditures. Brief explanations of the various types of tax expenditures follow:

FY2011 Governor's Budget Recommendation

Exclusions from Gross Income: Gross income is the starting point in the calculation of income tax liability and, in the absence of tax expenditures, would include all income received from all sources. Typically, the taxpayer does not report items of income that are excluded from gross income on his or her tax return. Thus, they escape taxation permanently.

Deferrals of Gross Income: Where an item of income is not included in gross income in the year when it is actually received, but is instead included in a later year, the result is a tax expenditure in the form of an interest-free loan from the state to the taxpayer in the amount of the tax payment that is postponed.

Deductions from Gross Income: Certain amounts are subtracted from gross income to arrive at adjusted gross income (AGI). Many of these deducted amounts reflect the costs of producing income (business expenses), and are not properly part of the income tax base. Such deductions are not tax expenditures. Other deductions that do not reflect business expenses constitute tax expenditures, which permit corresponding amounts of income to escape taxation permanently.

Accelerated Deductions from Gross Income: In a number of cases, taxpayers are allowed to deduct business expenses from gross income at a time earlier than such expenses would ordinarily be recognized under Generally Accepted Accounting Principles. The total amount of the permissible deduction is not increased, but it can be utilized more quickly to reduce taxable income. The result is to defer taxes, thus in effect occasioning an interest-free loan from the state to the taxpayer.

Deductions from Adjusted Gross Income (AGI): Taxable income results from the subtraction of certain deductions and exemptions from AGI. Certain of these subtracted items represent amounts of income necessary for subsistence; their exclusion is part of the basic structure of the income tax. Other subtracted items represent tax expenditures, which permit corresponding amounts of income to escape taxation permanently.

Credits against Tax: After a taxpayer's basic tax liability has been calculated by applying the tax rates to taxable income, the taxpayer may subtract certain credit amounts from this initial liability in determining the actual amount of taxes that must be paid. It is important to note that, whereas a one-dollar exclusion or deduction results in a tax savings of only a few cents (one dollar times the applicable tax rate), a one-dollar credit results in a one-dollar tax savings.

List of Personal Income Tax Expenditures**1.000 EXCLUSIONS FROM GROSS INCOME**

- 1.001 Exemption of Premiums on Accident and Accidental Death Insurance¹
Employer contributions for premiums on accident and accidental death insurance are not included in the income of the employee and are deductible by the employer.

Origin: IRC § 106
Estimate: \$20.8
- 1.002 Exemption of Premiums on Group-Term Life Insurance¹
Employer payments of employee group-term life insurance premiums for coverage up to \$50,000 per employee are not included in income by the employee and are deductible by the employer.

Origin: IRC § 79
Estimate: \$17.1
- 1.003 Exemption of Interest on Life Insurance Policy and Annuity Cash Value Interest, which is credited annually on the cash value of a life insurance policy or annuity contract, is not included in the income of the policyholder or annuitant. Only when a life insurance policy is surrendered before death or when annuity payments commence does the interest become subject to tax. (Interest on dividends left on deposit is taxable.)

Origin: IRC § 101
Estimate: \$235.7
- 1.004 Exemption of Employer Contributions for Medical Insurance Premiums and Medical Care¹
Employer contributions for medical insurance premiums and reimbursements for medical care are not included in the income of the employee and are deductible by the employer.

Origin: IRC §§ 105 and 106
Estimate: \$916.0
- 1.005 Exemption of Annuity or Pension Payments to Fire and Police Personnel
Income from noncontributory annuities or pensions to certain retired fire and police personnel or their survivors are tax-exempt.

Origin: M.G.L. c. 32
Estimate: N.A.

- 1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans²
Certain pensions and annuity distributions are tax-exempt under Massachusetts' law. They are payments from contributory plans of the U.S. government, Massachusetts and its subdivisions, and other states that do not tax such income from Massachusetts. Any benefits in excess of contributions not taxed by Massachusetts constitute this tax expenditure.
- Origin: M.G.L. c. 62, §§ 2(a)(2)(E) and 3B(a)(4)
Estimate: N.A.
- 1.007 Exemption of Railroad Retirement Benefits
Railroad retirement benefits are not taxed. (Massachusetts has not adopted Internal Revenue Code section 86, which taxes some of these benefits if a taxpayer's income is above a certain level.)
- Comment: No adjustment is made for any prior payments taxpayers may have made to fund this system since employee payments to this system are taxes rather than contributions.
- Origin: M.G.L. c. 62, § 2(a)(2)(H)
Estimate: \$4.1
- 1.008 Exemption of Public Assistance Benefits
Public assistance or welfare benefits are not taxed. These include Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI) benefits, and the like.
- Origin: Rev. Rul. 71-425, 1971-2 C.B. 76
Estimate: \$153.1
- 1.009 Exemption of Social Security Benefits
Social Security benefits paid to people age 65 or older and their dependents, to persons under 65 who are survivors of deceased workers, and to disabled workers and their dependents are not taxed. Massachusetts has not adopted Internal Revenue Code section 86, which taxes a portion of these payments where a taxpayer's income is above a certain level.
- Comment: The comment under item 1.007 applies to this item as well.
- Origin: M.G.L. c. 62, § 2 (a)(2)(H)
Estimate: \$769.0

- 1.010 **Exemption of Workers' Compensation Benefits**
 Workers' compensation benefits are not taxed. These are benefits paid to disabled employees or their survivors for employment-related injuries or diseases.
- Origin: IRC § 104 (a)(1)
 Estimate: \$7.3
- 1.011 **Exemption for Dependent Care Expenses¹**
 Day care paid for or provided by an employer to an employee, the value of which does not exceed the employee's or employee's spouse's "earned" income, and does not exceed the amount of \$5,000, is not included in the income of the employee and is deductible by the employer.
- Origin: IRC § 129
 Estimate: \$6.8
- 1.012 **Exemption of Certain Foster Care Payments**
 Qualified foster care payments are not includible in the income of a foster parent.
- Origin: IRC § 131
 Estimate: \$5.9
- 1.013 **Exemption of Payments Made to Coal Miners**
 Coal miners or their survivors may exclude from income payments for disability or death from black lung disease.
- Origin: IRC § 104(a)(1)
 Estimate: Negligible
- 1.014 **Exemption of Rental Value of Parsonages¹**
 A minister may exclude from gross income a rental allowance or the rental value of a parsonage furnished to him or her.
- Origin: IRC § 107
 Estimate: \$4.6
- 1.015 **Exemption of Scholarships and Fellowships**
 Degree candidates can exclude scholarships and fellowship income if the amounts are not compensation for services or for the payment of room, board or travel expenses.
- Origin: IRC § 117
 Estimate: \$18.4

- 1.016 Exemption of Certain Prizes and Awards
Prizes and awards are generally required to be included in income. The exemption of certain prizes and awards is generally limited to taxpayers who donate the proceeds to a charitable organization. Certain employee achievement awards are also excluded from gross income.

Origin: IRC § 74
Estimate: N.A.
- 1.017 Exemption of Cost-Sharing Payments
Portions of government cost-sharing payments to assist in water and soil conservation projects are not includible in the recipient's income.

Origin: IRC § 126
Estimate: Negligible
- 1.018 Exemption of Meals and Lodging Provided at Work¹
The value of meals and lodging furnished to the employee by the employer on the business premises for the employer's convenience is not included in the income of the employee. The employer's expenses are deductible.

Origin: IRC § 119
Estimate: \$6.3
- 1.019 Treatment of Business-Related Entertainment Expenses¹
With certain limitations, a business may take a deduction of up to 50% of the cost of business-related entertainment expenses. Generally, the value of the entertainment is not taxed as income to the persons who benefit from the expenditures. The effect is to provide the hosts and their guests with a nontaxable fringe benefit.

Origin: IRC § 162
Estimate: N.A.
- 1.020 Exemption of Income from the Sale, Lease, or Transfer of Certain Patents
Incomes from the sale, lease or other transfer of approved patents for energy conservation, and income from property subject to such patents, are excluded from gross income for a period of five years.

Origin: M.G.L. c. 62, § 2(a)(2)(G)
Estimate: N.A.

- 1.021 Exemption of Capital Gains on Home Sales
Taxpayers may exclude up to \$250,000 of capital gain (or \$500,000 if filing jointly) on the sale of a principle residence. This exclusion from gross income may be taken any number of times, provided the home was the filer's primary residence for an aggregate of at least two of the previous five years.
- Comment: This expenditure and 1.105 (Deferral of Capital Gains on Home Sales) were changed by the Taxpayer Relief Act of 1997; item 1.105 (based on IRC 1034, the rollover of capital gains on the sale of a home) was repealed. In effect, both 1.105 and 1.021 were replaced with a modified IRC 121. The new IRC 121, which is the basis for Massachusetts tax expenditure 1.021, removed the age requirement and the "one-time-only" limitation.
- Origin: IRC § 121
Estimate: \$248.1
- 1.022 Nontaxation of Capital Gains at Death
Ordinarily, capital gains are taxed at the time appreciated property is transferred. However, no tax is imposed on a capital gain when appreciated property is transferred at death. The appreciation that accrued during the lifetime of the transferor is never taxed as income.
- Comment: See also item 1.106 below.
- Origin: IRC §§ 1001 and 1014
Estimate: \$325.8
- 1.023 Exemption of Interest from Massachusetts Obligations
Interest earned on Massachusetts bonds is exempt. The exclusion applies to bonds of Massachusetts agencies and local subdivisions as well.
- Origin: M.G.L. c. 62, § 2 (a)(1)(A)
Estimate: \$137.0
- 1.024 Exemption of Benefits and Allowances to Armed Forces Personnel¹
Under the January 1, 1998 Code, Massachusetts allowed the federal exclusion for certain military fringe benefits including combat zone compensation, veterans' and medical benefits, disability benefits, moving allowances and a death gratuity benefit of \$3,000. As a result of recent legislation under which the Commonwealth incorporated into Massachusetts personal income tax law the Code as amended and in effect on January 1, 2005 (hereinafter referred to as the "Code Update"). This exclusion was extended to include dependent care assistance under a dependent care assistance program, travel benefits received under the Operation Hero Miles program and an increased death benefit gratuity of \$12,000.
- Origin: IRC §§ 112-113
Estimate: \$14.4
- 1.025 Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits
These veterans' benefits are not taxed.
- Origin: 38 U.S.C. § 5301
Estimate: \$24.4

FY2011 Governor's Budget Recommendation

- 1.026 **Exemption of Military Disability Pensions**
Disability pensions paid to service personnel are fully excluded from gross income. The portion of a regular pension that is paid on the basis of disability may also be excluded.

Origin: IRC § 104(a)(4)
Estimate: \$0.6
- 1.027 **Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel**
Compensation paid by the U.S. to nonresident uniformed military personnel on duty at bases within Massachusetts for services rendered while on active duty is defined as compensation from sources outside Massachusetts. It is therefore not taxed.

Comment: This tax treatment follows U.S. statutory law.

Origin: 50 U.S.C. App. § 574; M.G.L. c. 62, § 5A(c)
Estimate: \$6.1
- 1.028 **Exemption for Taxpayers Killed in Military Action or by Terrorist Activity**
Massachusetts residents who die in combat while in active military service, or who die as a result of terrorist or military action outside of the U.S. while serving as military or civilian employees of the U.S. are exempt from income taxation.

Origin: M.G.L. c. 62, § 25
Estimate: N.A.
- 1.029 **Exemption for Retirement Pay of the Uniformed Services**
Effective January 1, 1997, income received from the United States government as retirement pay and survivorship benefits for a retired member of the Uniformed Services of the United States is exempt from the personal income tax. The Uniformed Services of the United States are: the Army, Navy, Air Force, Marine Corps, Coast Guard, and the Commissioned Corps of the Public Health Service and National Oceanic and Atmospheric Administration.

Origin: M.G.L. c. 62, § 2
Estimate: \$22.1
- 1.030 **Parking, T-Pass and Vanpool Fringe Benefits**
A federal and Massachusetts exclusion is allowed for employer-provided parking, transit passes and vanpool benefits (i.e. "qualified transportation benefits"), subject to monthly maximums. However, a federal Act subsequent to January 1, 1998, created differences between the Massachusetts and federal exclusion amounts. As a result of the Code Update, for tax years starting on or after January 1, 2005, Massachusetts adopts the federal exclusion without any differences in exclusion amounts or allowed benefits.

Origin: IRC sec. 132(f)
Estimate: \$37.4

- 1.031 Health Savings Accounts
For federal income tax purposes, the earnings in a Health Savings Account (HSA) account accrue on a tax-free basis, and qualified distributions from a HSA are excluded from gross income. Prior to the most recent Code update, Massachusetts taxed earnings in a HSA and also taxed distributions to the extent such amounts were not previously taxed by Massachusetts. As a result of the Code Update, Massachusetts adopts the federal exclusion for earnings in, and qualified distributions from, a HSA.
- Origin: IRC sec. 223
Estimate: Included in 1.422
- 1.032 Employer-Provided Adoption Assistance
Massachusetts adopts the federal exclusion for employer-provided adoption expenses paid (or treated as paid under IRC sec. 137) on or after January 1, 2005. In the case of an adoption of a child with special needs the exclusion applies regardless of whether the employee has qualified adoption expenses. For tax year 2009, the exclusion is limited to \$11,390 per child and begins to be phased out for taxpayers with federal modified adjusted gross income in excess of \$182,180, with complete phasing out of the deduction for taxpayers with federal modified adjusted gross income of \$222,180.
- Origin: IRC sec. 137
Estimate: \$0.6
- 1.033 Employer-Provided Educational Assistance
Under the January 1, 1998 Code, Massachusetts had adopted the federal exclusion for qualified educational expenses reimbursed to an employee under an employer-provided education assistance program. As a result of the 2005 Code Update, Massachusetts adopts the federal exclusion for qualified educational expenses for undergraduate and graduate education expenses up to the federal annual maximum of \$5,250 per calendar year.
- Origin: IRC secs. 127 and 132
Estimate: \$8.8
- 1.034 Qualified Retirement Planning Services
Massachusetts adopts the federal exclusion for the employee fringe benefit of retirement planning advice or information provided to an employee and his spouse by an employer maintaining a qualified employer plan. Qualified employer plans include IRC sec. 401(a) plans, annuity plans, government plans, IRC sec. 403(b) annuity contracts, SEPs and SIMPLE accounts. This exclusion is due to expire for tax or plan years beginning after December 31, 2010.
- Origin: IRC sec. 132(m)
Estimate: N.A.
- 1.035 Department of Defense Homeowners Assistance Plan
Massachusetts adopts the federal exclusion for the employee fringe benefit of payments received under the Homeowners Assistance Plan. Such payments are intended to compensate military personnel and certain civilian employees for a reduction in the fair market value of their homes resulting from military or Coast Guard base closure or realignment.

Origin: IRC sec. 132(m)
Estimate: N.A.

- 1.036 Survivor Annuities of Fallen Public Safety Officers
For both Massachusetts and federal tax purposes, an exclusion from income is allowed for amounts paid under a governmental plan as an annuity to the survivor of a public safety officer killed in the line of duty. However, a federal Act subsequent to January 1, 1998, created differences between the Massachusetts and federal exclusion amounts. Massachusetts had allowed an exclusion for amounts received in tax years beginning after December 31, 1996, with respect to individuals dying after that date. As a result of the most recent Code update, Massachusetts adopts the federal exclusion as amended and in effect on January 1, 2005, that extends the exclusion for such annuities from, and including, individuals dying after December 31, 1996 to individuals dying on or before December 31, 1996.

Origin: IRC sec. 101(h)
Estimate: N.A.

- 1.037 Survivor Annuities of Fallen Astronauts
Massachusetts adopts the federal exclusion for death benefits paid by the U.S. government to the survivors of astronauts who die in the line of duty. The Massachusetts exclusion is effective for payments made on or after January 1, 2005.

Origin: IRC sec. 101(i)
Estimate: N.A.

- 1.038 Discharge of Indebtedness for Victims of Terrorism
Massachusetts adopts the federal exclusion for discharge of indebtedness due to the death of an individual resulting from the September 11, 2001, terrorist attacks or as the result of anthrax-related illness occurring on or after September 11, 2001, and before January 1, 2002.

Origin: IRC sec. 108 & P.L. 107-134
Estimate: N.A.

- 1.039 Discharge of Indebtedness for Health Care Professionals
Massachusetts adopts the federal exclusion for National Health Service Corps Loan Program repayments made to health care professionals. Loan repayments received under similar state programs eligible for funds under the Public Health Service Act are also excluded from income.

Origin: IRC sec. 108(f)(4)
Estimate: Negligible

- 1.040 Archer Medical Savings Accounts
For federal income tax purposes, the earnings in an Archer Medical Savings Account (MSA) account accrue on a tax-free basis, and qualified distributions from an Archer MSA are excluded from gross income. Prior to the 2005 Code update, Massachusetts taxed earnings in an Archer MSA for individuals who became active participants on or after January 1, 2001 and also taxed distributions for such individuals to the extent such amounts were not

previously taxed by Massachusetts. As a result of the Code Update, Massachusetts adopts the federal exclusion for earnings in, and qualified distributions from, an Archer MSA for all federally qualified individuals.

Origin: IRC sec. 220

Estimate: Included in item 1.420

1.100 DEFERRALS OF GROSS INCOME

1.101 Net Exemption of Employer Contributions and Earnings of Private Pension Plans²

Employer contributions to private, qualified employee pension plans are deductible by the employer up to certain amounts and are not included in the income of the employees. Income earned by the invested funds is not currently taxable to the employees. Benefits in excess of any employee contributions previously taxed by Massachusetts are taxable when paid out. The value of the tax deferral on contributions and on the investment income is a tax expenditure.

Origin: IRC §§ 401-415 in effect January 1, 1985 and M.G.L. c. 62 §§ 2(a)(2)(F) and 5(b)
Estimate: \$760.6

1.102 Treatment of Incentive Stock Options

Massachusetts has adopted the federal rules for employee stock options. Generally, employers may offer employees options to purchase company stock at a later date at a price equal to the fair market value of the stock when the option was granted. At the time employees exercise the option, they do not include in income the difference between the fair market value and the price they pay. If they later sell the stock, they are taxed on the amount by which the price they receive for the stock exceeds the price they paid. Thus, income is deferred and is taxed as a capital gain instead of as compensation.

Origin: IRC §§ 421-425
Estimate: N.A.

1.103 Exemption of Earnings on Stock Bonus Plans or Profit Sharing Trusts
Investment income earned by stock bonus plans or profit sharing trusts is not taxed currently for employees.

Origin: M.G.L. c. 62, § 5(b)
Estimate: N.A.

1.104 Exemption of Earnings on IRA and Keogh Plans²

This includes exclusions from income for some retirement contributions; these exclusions and the earnings from them are taxed upon distribution. The deferral of tax on the investment income is a tax expenditure.

Origin: M.G.L. c. 62, §§ 2(a)(2)(F) and 5(b)
Estimate: \$313.6

1.105 Deferral of Capital Gains on Home Sales

The Taxpayer Relief Act of 1997 repealed this expenditure.

Comment:

Taxpayers may exclude up to \$250,000 of capital gain (or \$500,000 if filing jointly) on the sale of a principle residence. This exclusion from gross income may be taken any number of times, provided the home was the filer's primary residence for an aggregate of at least two of the previous five years. The capital gains on home sales are no longer deferred.

Origin: IRC § 1034
Estimate: N.A.

- 1.106 Nontaxation of Capital Gains at the Time of Gift
Ordinarily, capital gains are taxed at the time appreciated property is transferred. However, no tax is imposed on a capital gain when appreciated property is transferred by gift. The taxation of appreciation is deferred until the recipient transfers the property.

Origin: IRC §§ 1001, 1015
Estimate: \$34.5

1.200 DEDUCTIONS FROM GROSS INCOME

- 1.201 Capital Gains Deduction
Long-term capital gains realized from the sale of collectibles (as defined by sec. 408 (m) of the IRC) are eligible for a 50% deduction from the 12% capital gains tax.

Origin: M.G.L. c. 62, § 2(c)(3)
Estimate: N.A.
- 1.202 Deduction of Capital Losses Against Interest and Dividend Income
Taxpayers may deduct up to \$2,000 of net capital loss against interest and dividend income. This limit was reestablished in 2002.

Origin: M.G.L. c. 62, § 2(c)(2)
Estimate: N.A.
- 1.203 Excess Natural Resource Depletion Allowance
Individuals or investors in extractive industries (mining or drilling natural resources) may deduct a percentage of gross mining income as a depletion allowance. The allowance may exceed the actual cost of the resource property. For a more detailed description of this tax expenditure, see corporate excise item 2.204.

Origin: IRC §§ 613 and 613A as in effect January 1, 1985
Estimate: \$0.6
- 1.204 Abandoned Building Renovation Deduction
Businesses renovating eligible buildings in Economic Opportunity Areas may deduct 10% of the cost of renovation from gross income. This deduction may be in addition to any other deduction for which the cost of renovation may qualify. To be eligible for this deduction, renovation costs must relate to buildings designated as abandoned by the Economic Assistance Coordinating Council.

Origin: M.G.L. c. 62, § 3(B)(a)(10)
Estimate: \$4.0

1.300 ACCELERATED DEDUCTIONS FROM GROSS INCOME**1.301 Accelerated Depreciation on Rental Housing**

Landlords and investors in rental housing may use accelerated methods of depreciation for new and used rental housing. Rental housing placed in service after 1988 is depreciated on a straight-line basis over a 27.5-year period. Rental housing placed in service before 1988 was depreciable over shorter periods (generally 19 or 20 years), and, instead of straight-line depreciation, the 175% declining balance method was permitted. Straight-line depreciation over the property's expected useful life is the generally accepted method for recovering the cost of building structures. The excess of allowable depreciation over such generally accepted depreciation is a tax expenditure, resulting in a deferral of tax or an interest-free loan.

Origin: IRC § 168(b)

Estimate: \$30.3

1.302 Accelerated Depreciation for Rehabilitation of Low-Income Housing

Landlords and other investors in low-income housing may amortize rehabilitation expenditures initiated before 1987 over a five-year period. For a more detailed description of this tax expenditure, see corporate excise item 2.302.

Origin: IRC § 167(k)

Estimate: N.A.

1.303 Accelerated Depreciation on Buildings (other than Rental Housing)

Individuals or investors in a trade or business may use accelerated methods of depreciation for buildings. Construction may be depreciated under methods that produce faster depreciation than economic depreciation. The precise rates have been changed repeatedly in recent years as the result of revisions in the federal tax code. Structures (other than rental housing) placed in service after 1987 are depreciated on a straight-line basis over a 31.5-year life. The excess of accelerated depreciation over economic depreciation is a tax expenditure, resulting in a deferral of tax or an interest-free loan.

Origin: IRC §§ 167(j) and 168(b)

Estimate: \$5.3

1.304 Accelerated Cost Recovery System (ACRS) for Equipment

For depreciable tangible personal property placed in service after 1980, capital costs may be recovered using the Accelerated Cost Recovery System (ACRS), which applies accelerated methods of depreciation over set recovery periods. For property placed in service after 1987, Massachusetts has adopted the Modified Accelerated Cost Recovery System (MACRS), which generally uses double declining balance depreciation over specified periods that are substantially shorter than actual useful lives (200% declining balance for 3-, 5-, 7- and 10-year recovery property and 150% declining balance for 15- and 20-year property). The excess of accelerated depreciation over economic depreciation is a tax expenditure, resulting in a deferral of tax or an interest-free loan.

Origin: IRC § 168
Estimate: \$65.5

- 1.305 **Deduction for Excess First-Year Depreciation**
Individuals or investors in a trade or business may elect to expense certain business assets purchased during the taxable year up to a maximum amount \$133,000 (however, see temporary increase below). For taxpayers whose investment in eligible assets exceeds \$530,000 in the year, the \$133,000 ceiling is reduced by \$1 for each dollar of investment above \$530,000. Any remaining cost must be depreciated according to MACRS, as described in the preceding item. The immediate deduction is a tax expenditure, resulting in a deferral of tax or an interest-free loan.
Effective for tax year 2009, the American Recovery and Reinvestment Act (ARRA) increased the IRC sec. 179 election to expense property in its initial year from \$133,000 to \$250,000. The federal Act also increased the sec. 179 overall investment limit from \$530,000 to \$800,000.

Origin: IRC § 179
Estimate: \$17.7

- 1.306 **Five-Year Amortization of Business Start-Up Costs**
Individuals or investors in a trade or business may elect to treat business start-up expenditures as deferred expenses and amortize them over five years. For a more detailed description of this tax expenditure, see corporate excise item 2.304.

Origin: IRC § 195
Estimate: \$5.0

- 1.307 **Five-Year Amortization of Certain Operating Rights**
Individuals or investors in a trade or business may amortize over five years the cost of bus route, freight forwarding and certain other operating rights that have lost their economic value due to federal deregulation. For a more detailed description of this tax expenditure, see corporate excise item 2.310.

Origin: Tax Reform Act of 1986, § 243
Estimate: N.A.

- 1.308 **Expensing Exploration and Development Costs**
Individuals or investors in extractive industries (mining or drilling natural resources) may take an immediate deduction for certain exploration and development costs. For a more detailed description of this tax expenditure, see corporate excise item 2.309; the provisions for individual taxpayers are somewhat more liberal than those that apply to corporations.

Origin: IRC §§ 263(c), 616 and 617 in effect January 1, 1985
Estimate: Negligible

- 1.309 **Expensing Research and Development Expenditures in One Year**
Individuals or investors in a trade or business may take an immediate deduction for research and development expenditures. For a more detailed

description of this tax expenditure, see corporate excise item 2.308.

Origin: IRC § 174

Estimate: \$1.2

1.310 Five-Year Amortization of Pollution Control Facilities

Individuals or investors in a trade or business may elect to amortize the cost of a certified pollution control facility over a five-year period. For a more detailed description of this tax expenditure, see corporate excise item 2.311.

Origin: IRC § 169

Estimate: N.A.

1.311 Seven-Year Amortization for Reforestation

Individuals or investors in the forestry business may amortize the costs of reforestation over a seven-year period. For a more detailed description of this tax expenditure, see corporate excise item 2.313.

Origin: IRC § 194

Estimate: N.A.

1.312 Expensing Certain Capital Outlays of Farmers

Farmers may use certain favorable accounting rules. For instance, they may use the cash basis method of accounting and may deduct up to 50% of non-paid farming expenses as current expenses even though these expenditures are for inventories on hand at the end of the year. They also may deduct certain capital outlays, such as expenses for fertilizers and soil and water conservation if they are consistent with a federal- or state-approved plan. Generally, these special rules are not available to farming corporations and syndicates.

Origin: IRC §§ 175, 180 and 182 and Reg. §§ 1.61-4, 1.162-12 and 1.471-6

Estimate: \$0.3

1.400 DEDUCTIONS FROM ADJUSTED GROSS INCOME

- 1.401 Deduction for Employee Social Security and Railroad Retirement Payments
Taxes paid by employees to fund the Social Security and Railroad Retirement systems are deductible against "earned" income up to a maximum of \$2,000 per individual.

Comment: The estimate also covers item 1.402 below.

Origin: M.G.L. c. 62, § 3B(a)(3)

Estimate: \$298.2

- 1.402 Deduction for Employee Contributions to Public Pension Plans²
Employee contributions to federal and state contributory pension plans are deductible against "earned" income up to a maximum of \$2,000 per individual.

Origin: M.G.L. c. 62, § 3B(a)(4)

Estimate: N.A. (included in item 1.401)

- 1.403 Additional Exemption for the Elderly
A taxpayer age 65 or over is entitled to an additional exemption against "earned" income of \$700 (\$1,400 for a married couple filing jointly if both spouses are age 65 or over).

Origin: M.G.L. c. 62, §§ 3B(b)(1)(C) and (2)(C)

Estimate: \$25.7

- 1.404 Additional Exemption for the Blind
A blind taxpayer is allowed an additional exemption against "earned" income of \$2,200 (\$4,400 for a married couple filing jointly if both spouses are blind).

Origin: M.G.L. c. 62, §§ 3B(b)(1)(B) and (2)(B)

Estimate: \$1.3

- 1.405 Dependents Exemption Where the Child Earns Income³
Taxpayers are allowed an additional exemption of \$1,000 for a dependent child even when the child earns income against which a personal exemption can be taken.

Comment: The estimate cannot be separated from the figure for the dependents exemption in endnote 3.

Origin: IRC § 151(c) in effect January 1, 1988 and M.G.L. c. 62 § 3B(b)(3)

Estimate: N.A.

- 1.406 Deduction for Dependents Under 12
Individual taxpayers and married taxpayers filing jointly with one or more dependents under age 12, who do not claim the deduction for child care described in item 1.409 below, may claim this deduction. Filers with one dependent under 12 may deduct \$3,600, while filers with two or more dependents under 12 may deduct \$7,200.
- Origin: M.G.L. c. 62, § 3B(a)(8)
Estimate: \$138.9
- 1.407 Personal Exemption for Students Age 19 or Over
A taxpayer may claim a dependent exemption of \$1,000 for a child who is a full-time student even if he or she is 19 or over.
- Origin: IRC § 151(c) in effect January 1, 1988 and M.G.L. c. 62 § 3B(b)(3)
Estimate: \$9.3
- 1.408 Deduction for Adoption Fees
Adoption fees paid to a registered adoption agency are deductible against "earned" income.
- Origin: M.G.L. c. 62, § 3B(b)(5)
Estimate: \$0.8
- 1.409 Deduction for Business-Related Child Care Expenses
Taxpayers qualifying for the credit for employment-related childcare expenses in the Internal Revenue Code are allowed a deduction against "earned" income for the amount of the expenses that qualify for the credit. Beginning in tax year 2001, the cap on this deduction was increased, and the coverage expanded to include elderly and disabled dependents. The cap increased from \$2,400 to \$3,600 for filers with one dependent, and from \$2,400 to \$4,800 for filers with two or more dependents. Beginning in tax year 2002, the cap was further increased to \$4,800 for qualifying filers with one dependent and to \$9,600 for filers with two or more dependents.
- Comment: For federal tax purposes, the requirement that employment-related child care expenses relate only to children under age 15 was further restricted to children under age 13. In addition, a federal change now requires a taxpayer to include employer-provided dependent care expenses when calculating the limitation amount of qualifying expenses.
- Origin: IRC § 21, in effect January 1, 1988 and M.G.L. c. 62, § 3B(a)(7)
Estimate: \$15.3

- 1.410 Exemption of Medical Expenses
Medical and dental expenses in excess of 7.5% of federal adjusted gross income are deductible against "earned" income for taxpayers who itemize deductions on their federal returns.

Origin: IRC § 213 and M.G.L. c. 62, § 3B(b)(4)
Estimate: \$71.1
- 1.411 Rent Deduction
Renters are able to deduct against Part B income one-half of the rent paid for a principal residence located in Massachusetts up to a maximum deduction of \$3,000 per year. This maximum was last raised in tax year 2001.

Origin: M.G.L. c. 62, § 3B(a)(9)
Estimate: \$117.3
- 1.412 Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators
The adjusted gross income of trustees, executors or administrators, which is currently payable to or irrevocably set aside for public charitable purposes is tax-exempt.

Origin: M.G.L. c. 62, §§ 3A(a)(2) and B(a)(2)
Estimate: N.A.
- 1.413 Exemption of Interest on Savings in Massachusetts Banks
Up to \$100 (\$200 on a joint return) of interest from savings deposits or savings accounts in Massachusetts banks is excluded from "earned" income.

Origin: M.G.L. c. 62, § 3B(a)(6)
Estimate: \$7.9
- 1.414 Tuition and Student Loan Interest Deduction
A federal and Massachusetts deduction is allowed for interest paid by the taxpayer, up to an annual maximum of \$2,500, for a qualified education loan for graduate or undergraduate education, subject to taxpayer income limitations. Under the January 1, 1998 Internal Revenue Code, this deduction was limited to the first 60 months and subject to lower taxpayer income limitations. As a result of the 2005 Code Update, Massachusetts adopts the new federal provision that repealed the 60 month limitation and allows higher taxpayer income limitations, subject to annual inflation adjustments. For tax year 2007, the maximum deduction of \$2,500 is reduced for taxpayers when federal modified adjusted gross income exceeds \$50,000 (\$105,000 for joint returns) and is completely eliminated when federal modified gross adjusted gross income is \$65,000 (\$135,000 for joint returns).

Origin: M.G.L. c. 62, § 3B(a)(11),(12)
Estimate: \$41.6
- 1.415 Charitable Contributions Tax Deduction
For tax year 2001, a deduction was allowed for charitable contributions in determining Part B taxable income. The deduction amount was equal to the taxpayer's charitable contributions for the year, as defined under the Federal Internal Revenue Code and without regard to whether the taxpayer elected to itemize deductions on his or her federal income tax return. Chapter 186 of the

Acts of 2002 suspended this deduction, so no tax expenditure is recorded for the current fiscal year.

Origin: M.G.L. c. 62 §6I
Estimate: N.A.

1.416 Educators' Deduction

As part of its 2005 update to the IRC, Massachusetts had adopted the deduction for expenses paid or incurred by an eligible educator for books, supplies, equipment and other qualified materials used in the classroom. However, as Massachusetts does not automatically update to all changes in the Code, this deduction expired at the end of tax year 2005 (see Appendix A).

Origin: IRC sec. 62(a)(2)(D)
Estimate: Expired

1.417 Home Heating Fuel Deduction

Expenses incurred for home heating oil, natural gas, or propane purchased between November 1, 2005 and March 31, 2006 were deductible. For homeowners and for renters who pay their own separate heating bills, the deduction was limited to the actual amount paid for home heating oil, natural gas or propane, or \$800, whichever was less. For renters where the cost of heating is included in rental payments, the deduction was limited to 20% of rental payments, up to a maximum of \$800. The deduction was available to single filers whose adjusted gross income was \$50,000 or less, and to joint filers and heads of household whose adjusted gross income was \$75,000 or less. Qualifying taxpayers could take the deduction in 2005 for purchases made in 2005 during the period November 1 through December 31, 2005. Where a taxpayer did not take the full \$800 deduction in 2005, the taxpayer could take the remainder in 2006 for heating expenses in 2006 through March 31, 2006.

Origin: Chapter 140 of the Acts of 2005
Estimate: Expired

1.418 Deduction for Costs Involved in Unlawful Discrimination Suits

Massachusetts adopts the federal deduction for attorney fees and court costs paid to recover a judgment or settlement for a claim of unlawful discrimination, up to the amount included in gross income for the tax year from such claim.

Origin: IRC secs. 62(a)(19) and 62(e)
Estimate: N.A.

1.419 Business Expenses of National Guard and Reserve Members

Massachusetts adopts the deduction for unreimbursed overnight travel, meals and lodging expenses of National Guard and Reserve Members who must travel more than 100 miles from home to perform services as a National Guard or reserve member.

Origin: IRC secs. 62(a)(2)(E) and 162(p)
Estimate: Negligible

1.420 Archer Medical Savings Accounts

Under the January 1, 1998 Code, Massachusetts allowed a deduction for an

Archer Medical Savings Account (MSA) contribution only for individuals who were active MSA participants before January 1, 2001. As a result of recently enacted legislation that aligned the Massachusetts tax code with the Internal Revenue Code as of January 1, 2005, Massachusetts adopts the federal deduction for Archer MSA contributions made on or after January 1, 2005 for all federally qualified individuals.

Origin: IRC sec. 220

Estimate: Negligible

- 1.421 Deduction for Clean-Fuel Vehicles and Certain Refueling Property
A federal and Massachusetts deduction is allowed for a portion of the cost of qualifying motor vehicles that use clean-burning fuel. Under the January 1, 1998 Code, this deduction was due to expire for vehicles placed in service after December 31, 2004. As a result of recently enacted legislation that aligned the Massachusetts tax code with the Internal Revenue Code as of January 1, 2005, Massachusetts adopts the new federal provision allowing the deduction for vehicles placed in service on or before December 31, 2006.

Origin: IRC secs. 62(a)(14) and 179A

Estimate: Negligible

- 1.422 Health Savings Accounts
Massachusetts adopts the federal deduction allowed to individuals for contributions to a Health Savings Account, subject to federal limitations, which are adjusted annually for inflation. For calendar year 2009, the maximum deduction limit is \$3,000 for an individual plan and \$5,950 for a family plan. Filers age 55 or older may increase the maximum deduction by \$1,000.

Origin: IRC secs. 62(a)(19) and 223

Estimate: \$9.6

- 1.423 Commuter Deduction
(Note: item 1.423 was formerly the temporary Tuition and Fees Deduction)

For tax years beginning on or after January 1, 2006, individuals may deduct certain commuting costs paid in excess of \$150 for:

- Tolls paid through the Massachusetts FastLane account; and
- The cost of weekly or monthly passes for MBTA transit, bus, commuter rail, or commuter boat.

The total amount deducted may not exceed \$750 per individual. Amounts paid must be reduced by any amounts reimbursed or otherwise deductible.

Origin: M.G.L. Chapter 62, Sec. 3 (B) (a) (15)

Estimate: \$6.5

- 1.424 Self-Employed Health Insurance Deduction
Massachusetts adopts the federal deduction allowed to self-employed individuals for premiums on health insurance. Insurance may be for the

individual, spouse, or member of their family. The insurance must be established under the self-employed individual's business.

Origin: IRC secs. 162(l)

Estimate: \$56.0

1.425 Student Interest Loan Deduction

Massachusetts allows as an option the federal "interest on education loans" deduction. The federal deduction phases out based on modified AGI. Alternatively, Massachusetts allows a deduction of undergraduate student loan interest. Filers may only choose one of these deductions.

Origin: M.G.L. c. 62, § 2(d)(1) and I.R.C. secs. 62(a)(17), ss 221.

Estimate: \$21.3

1.600 CREDITS AGAINST TAX

1.601 Renewable Energy Source Credit

Owners and tenants of residential property located within Massachusetts who are not dependents and who occupy the property as a principal residence are allowed a credit up to \$1,000, or an amount equal to 15% of the cost of a renewable energy source. Unused credits may be carried forward for three years.

Origin: M.G.L. c. 62, § 6(d)

Estimate: \$1.3

1.602 Credit for Removal of Lead Paint

A tax credit is provided in the amount of the cost of removing or covering lead paint on each residential unit up to \$1,500. A seven-year carryover of any unused credit is permitted.

Origin: M.G.L. c. 62, § 6(e)

Estimate: \$2.5

1.603 Economic Opportunity Area Credit & Enhanced Economic Opportunity Area Credit

Businesses investing in qualified property in an Economic Opportunity Area are entitled to a credit against tax of 5% of the cost of the property. To qualify for the 5% credit, the property must be used exclusively in a certified project in an Economic Opportunity Area. To be certified, the Economic Assistance Coordinating Council must approve a project.

Origin: M.G.L. c. 62, § 6(g)

Estimate: \$3.1

1.604 Credit for Employing Former Full-Employment Program Participants

Employers who continue to employ former participants of the §110(1) full employment program in non-subsidized positions are eligible to receive a tax credit equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year.

Origin: St. 1995, c. 5, § 110(m)

Estimate: \$0.1

1.605 Earned Income Credit

Effective January 1, 1997, taxpayers were allowed a refundable credit against Massachusetts tax equal to 10% of the amount of the earned income credit claimed on their federal individual income tax returns. Effective January 1, 2001, the allowed percentage was increased to 15%.

Origin: M.G.L. c. 62, § 6(h)

Estimate: \$94.5

1.606 Septic System Repair Credit

Taxpayers required to repair or replace a failed cesspool or septic system pursuant to the provisions of Title V, as promulgated by the Department of Environmental Protection in 1995, are allowed a credit equal to 40% of the design and construction costs incurred (less any subsidy or grant from the Commonwealth), up to a maximum of \$1,500 per tax year and \$6,000 in total.

Unused credits may be carried forward for up to five years.

Origin: M.G.L. c. 62, § 6(i)

Estimate: \$18.5

1.607 Low Income Housing Tax Credit

Provides five years of tax credits to developers who set aside a specified percentage of housing units for low-to-moderate income renters. The credits may be sold or transferred to another taxpayer.

Origin: M.G.L. c. 62, § 6I a

Estimate: \$1.0

1.608 Brownfields Credit

Recent legislation extended the Brownfields credit to nonprofit organizations, extended the time from for eligibility for the credit, and permitted the credit to be transferred, sold, or assigned. Legislation changed the commencement cut-off date from August 5, 2005 to August 5, 2011, and the time for incurring eligible costs that qualify for the credit to January 1, 2012.

The amount of the credit varies according to the extent of the environmental remedy. If the taxpayer's permanent solution or remedy operation status includes an activity and use limitation, then the amount of the credit is 25% of the net response and removal costs incurred by the taxpayer. However, if there is no activity and use limitation, then the amount of the credit is 50% of the net response and removal costs.

Origin: M.G.L. c. 62, §6 (j)

Estimate: \$0.9

1.609 Refundable State Tax Credit Against Property Taxes for Seniors ("Circuit Breaker")

Seniors are eligible for a tax credit to the extent that their property taxes -- or 25% of rent -- exceed 10% of their income. Income limits and a cap on the maximum assessed value of the filer's primary residence apply. The maximum credit is also adjusted annually for inflation. The maximum base credit was \$385 for tax year (TY) 2001, \$790 for TY02, \$810 for TY03, \$820 for TY04, \$840 for TY05, \$870 for TY06, \$900 for TY07, \$930 for TY08, and \$960 for TY09.

Income limits and the maximum credit are adjusted for inflation over a 1999 base year; however, chapter 136 of the Acts of 2005 increased the assessed home valuation to \$600,000 and set its base year to 2004. To qualify for this credit, the maximum assessed home value for tax year 2009 must not exceed \$788,000.

Origin: M.G.L. c. 62, § 6 (k); The chapter 136 of the Acts of 2005.

Estimate: \$60.3

1.610 Historic Buildings Rehabilitation Credit

If a structure is listed on the National Historic Register and has been substantially rehabilitated in keeping with its historical character, it may qualify for this credit. To qualify, the project must be certified by the Massachusetts Historical Commission, which determines the amount of qualifying expenditures. Filers may claim up to 20% of their qualified rehabilitation

expenditures. Credits may be carried forward for up to 5 years. The expenditure for this item (combined with the Historic Rehabilitation Credit for all business filers, item 2.610) was originally capped at \$15 million per year, with a start date for the credit of January 1, 2005 and an end date of December 31, 2009. Chapter 123 of the Acts of 2006 extended the availability of the credit for an additional two years, to December 31, 2011, and increased the annual \$15 million cap amount to \$50 million. The credits may be sold or transferred to another taxpayer.

Origin: M.G.L. c. 62, § 6 J, Chapter 464 of the Acts of 2004, St. 2006, c. 123, §§ 51 and 65

Estimate: \$2.5

1.611 Film (or Motion Picture) Credit

Individual income tax filers engaged in the making of a motion picture are allowed two credits:

a) *Payroll credit*: This is a credit for the employment of persons within the Commonwealth in connection with the filming or production of 1 or more motion pictures in the Commonwealth within any consecutive 12 month period. The credit is equal to 25 per cent of the total aggregate payroll paid by a motion picture production company that constitutes Massachusetts source income, when total production costs incurred in the commonwealth equal or exceed \$50,000 during the taxable year. The term "total aggregate payroll" may not include the salary of any employee whose salary is equal to or greater than \$1,000,000.

b) *Non-payroll production expense credit*: Individual income tax filers are also allowed a credit equal to 25 per cent of all motion picture related Massachusetts production expenses, not including the payroll expenses used to claim the aforementioned payroll credit. To be eligible for this credit, either Massachusetts motion picture production expenses must exceed 50 per cent of the total production expenses for a motion picture or at least 50 per cent of the total principal photography days of the film take place in the Commonwealth.

These tax credits are refundable at 90% of the approved credit amounts, or the amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 5 subsequent taxable years. Additionally, all or any portion of tax credits issued may be transferred, sold or assigned to other taxpayers with tax liabilities under chapter 62 (the individual income tax) or chapter 63 (the corporate or other business excise taxes). For applications submitted prior to January 1, 2007, film tax credits were capped at \$7,000,000 for any one motion picture production; for applications submitted on or after January 1, 2007, there is no cap. Also, the sunset date for the film incentives statute has been extended from January 1, 2013 to January 1, 2023. See TIR 07-15 for more information.

Origin: "An Act Providing Incentives to the Motion Picture Industry", St. 2005, c. 158, signed into law on November 23, 2005 and "An Act Providing Incentives to the Motion Picture Industry", St. 2007, c. 63; M.G.L. c. 63.
Estimate: \$1.6

- 1.612 **Home Energy-Efficiency Tax Credit**
 A credit had been allowed for owners of residential property located in Massachusetts for certain energy efficient heating items purchased between November 1, 2005 and March 31, 2006 for installation in such property. As of January 2009, this credit has not been extended.
- Origin: Chapter 140 of the Acts of 2005
 Estimate: Expired
- 1.613 **Medical Device User Fee Credit**
 Medical device companies that develop or manufacture medical devices in Massachusetts can claim a credit equal to 100% of the user fees paid by them when submitting certain medical device applications and supplements to the United States Food and Drug Administration. The credit is also transferable. For the personal income tax, the credit applies to any qualifying entity organized as a sole proprietorship, partnership, limited liability company, corporate trust or other business where the income is taxed directly.
- Origin: M.G.L. c. 62, § 6½, Chapter 145 of the Acts of 2006.
 Estimate: \$0.4
- 1.614 **Dairy Farmers Credit**
 A taxpayer who holds a certificate of registration as a dairy farmer pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The total cumulative value of the credits authorized pursuant to this section combined with section 38Z of chapter 63 shall not exceed \$4,000,000 annually.
- Origin: M.G.L. c. 62, § 6 (o), Chapter 310 of the Acts of 2008 Sec. 3.
 Estimate: \$1.8

KEY	ORIGIN	
	IRC	Federal Internal Revenue Code (26 U.S.C.)
	U.S.C	United States Code
	M.G.L.	Massachusetts General Laws
	Rev. Rul.; C.B.	Revenue Ruling; Cumulative Bulletin of the U.S. Treasury
	ESTIMATES	
	All estimates are in \$ millions.	

ENDNOTES:

¹ This item and others citing this endnote cover employee fringe benefits. We accept as standard the following treatment of these benefits: the expense incurred by the employer in providing the benefit is properly deductible as a business expense and the benefit is taxed as compensation to the employee as if the employee had received taxable compensation and then used it to purchase the benefit. Of course, there are problems with this analysis. In some cases, the "benefit" is more a condition of employment than a true benefit. For example, a teacher required to have lunch in the school cafeteria may prefer to eat elsewhere even if the school lunch is free. On the other hand, in many cases the provision of tax-free employee benefits is clearly a substitution for taxable compensation.

² This item and others citing this endnote cover contributory pension plans. The standard tax treatment of these plans is as follows:

<u>Component</u>	<u>Standard Treatment</u>
Contributions:	Made out of income that is currently taxed to the employee.
Investment Income:	Taxed to the employee as "earned" income.
Distributions from Pension Funds:	Tax-free to the extent they are made out of dollars previously taxed to the employee as contributions or investment income.

FY2011 Governor's Budget Recommendation

The non-standard treatment of contributions, investment income, or distributions as described in items 1.006, 1.101, 1.104, and 1.402, results in either nontaxation or deferrals of tax.

³ FY11 estimates for the basic personal exemptions and the no-tax status discussed in the introduction to the personal income tax are (in millions of dollars):

- Personal exemption for single taxpayers: \$304
- Personal exemption for married couples: \$545
- Personal exemption for married taxpayers filing separately: \$14
- Dependents exemption: \$97
- Personal exemption for heads of households: \$101
- No tax status/Limited income credits: \$35

It should be noted that Chapter 186 of the Acts of 2002 reduced personal exemptions for tax year by 25% from their 2001 levels effective in tax year 2002; one-quarter of this reduction was restored effective tax year 2005, with additional one-quarter amounts restored in tax years 2006, 2007, and 2008. These changes in personal exemptions are reflected in the estimates above.

In 1780, the Massachusetts Constitution gave to the General Court the power to levy "reasonable duties and excises upon any produce, wares, merchandise and commodities brought into, produced, manufactured, or being within the Commonwealth."

The corporate excise was enacted in 1919, replacing a corporate franchise tax, which was levied on the value of capital stock. Initially, the corporate excise was imposed on corporate excess and on net income.

In 1962, the corporate excess measure was repealed. The tax is now levied on tangible property or net worth (depending on the mix of property held by the corporation) and on net income.

Revenues from the corporate excise represented 8.5% of total Department of Revenue tax collections for Fiscal Year 2009. The tax ranked third in Fiscal Year 2009 in terms of total taxes collected, after the individual income tax and the sales and use tax.

Corporate Excise: Basic Structure

Tax Base: Generally, corporations doing business in Massachusetts are subject to a tax based on net income and on either tangible property or net worth. Together, these two measures of tax constitute the corporate excise.

The net income measure of the tax is based on gross income for federal tax purposes with certain additions, such as interest earned on state obligations, and certain deductions, most of which are allowable under the provisions of the Internal Revenue Code. Many of the deductions are considered to be part of the basic structure. For example, in providing for depreciation deductions, the basic structure would allow the cost of property to be written-off evenly over its useful life (so-called "straight-line depreciation"). However, rules that allow accelerated depreciation deductions are listed as tax expenditures.

Corporations with qualifying tangible assets in Massachusetts that equal or exceed 10% of their qualifying total assets in Massachusetts (apportioned according to their income apportionment percentage) are taxed on the value of their tangible property. Other corporations are taxed on a net worth basis.

Banks, security corporations, utility corporations, and insurance companies are taxed in a different manner, and are generally not included in this budget. Tax expenditures for these separately taxed corporations are included, however, where they enjoy the benefit of federal and state tax expenditures catalogued in this section, because the taxes to which they are subject are based at least in part on net income.

FY2011 Governor's Budget Recommendation

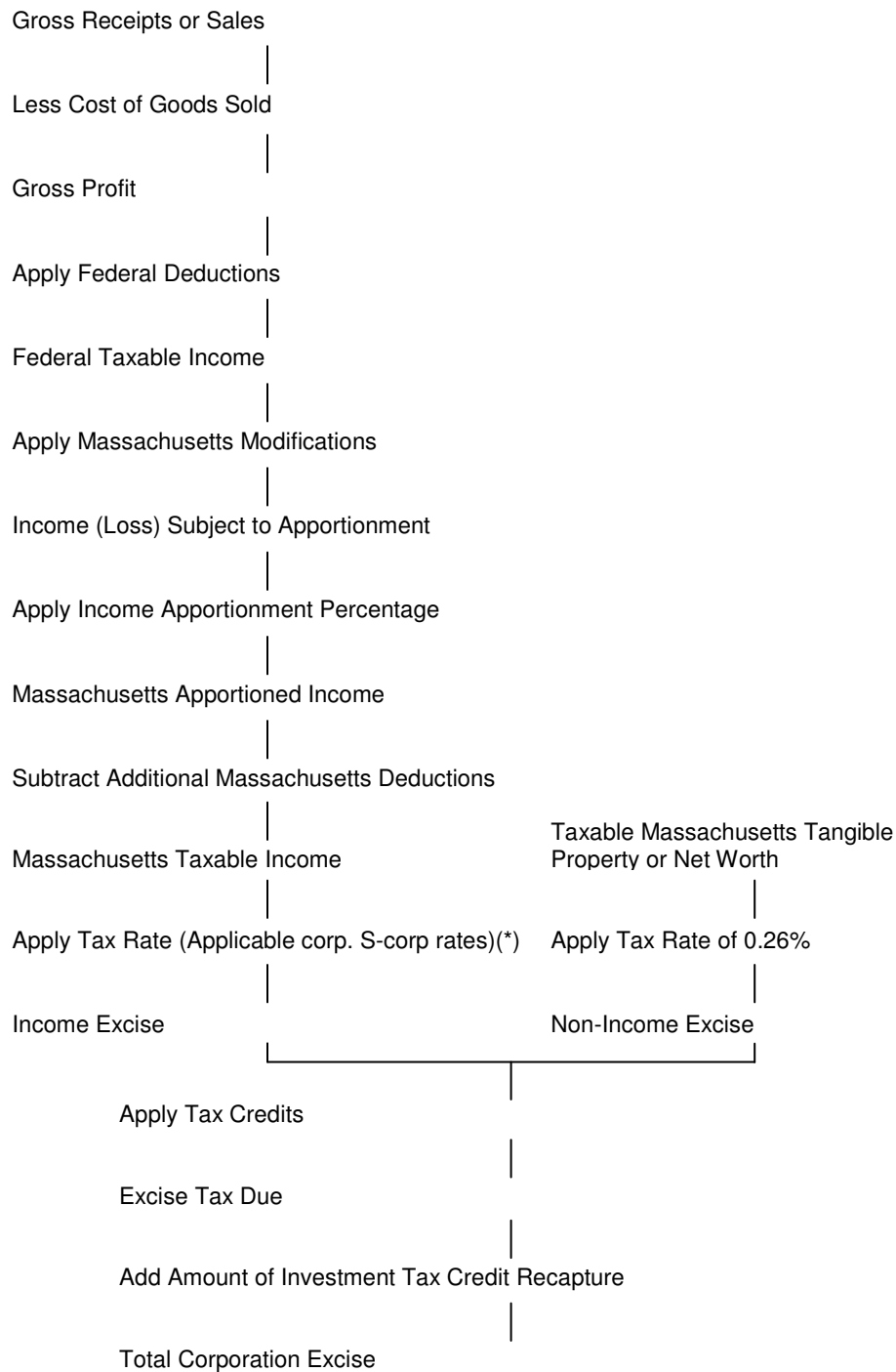
Taxable Unit: A corporation is a taxpayer separate and distinct from its shareholders.

Rate Structure: The effective excise rate on C-corporations is 9.5% of net income apportioned to Massachusetts, and \$2.60 per \$1,000 of the value of Massachusetts tangible property or net worth allocable to Massachusetts. The effective excise rate on S-corporations is 4.5% for the companies with the range of gross sales greater than \$9M, and 3% for the companies with the range of gross sales between \$6M and \$9M, and the tax on tangible property is the same as for C-corporations. The minimum tax is \$456. The rates have been scheduled to decline for corporate and business taxpayers (see Appendix A for further details). Corporate tax expenditure items take into account of these tax rate changes.

Taxable Period: The taxable period for corporations is either the calendar year or the corporation's fiscal year. Estimated payments are made every three months during the taxable year. Federal accounting periods and methods have been adopted. Net operating loss carry-forwards are allowed. Qualifying losses may be carried forward for no more than five years.

Interstate and International Aspects: All domestic corporations are subject to the corporate excise by reason of corporate existence at any time during the taxable year. Foreign corporations doing business within the state or owning property in the state are also subject to the excise. Corporations doing business both within and without Massachusetts are entitled to apportion net income if they have income from business activity which is taxable in another jurisdiction using a formula based on the proportions of corporate real and tangible personal property, payroll, and sales that are located in Massachusetts. Under certain circumstances, taxpayers may petition for, or the Commissioner may impose, alternate methods of accounting to reflect more fairly a taxpayer's income from business operations in Massachusetts.

Computation of Massachusetts Business Corporation Excise



(*) See Appendix A for further details.

Types of Tax Expenditures under the Corporate Excise

As with the personal income tax, the basic structure of the corporate excise is subject to several different types of modifications that can produce tax expenditures.

Exclusions from Gross Income: Gross income is the starting point in the calculation of the income component of the corporate excise. In the absence of tax expenditures, it would include all income received from all sources. Items of income that are excluded from gross income escape taxation permanently.

Deferrals of Gross Income: Where an item of income is not included in gross income in the year when it is actually received, but is instead included in a later year, the result is a tax expenditure in the form of an interest-free loan from the state to the taxpayer in the amount of the tax payment that is postponed.

Deductions from Gross Income: Certain amounts are subtracted from gross income to arrive at taxable income. Many of these deducted amounts reflect the costs of producing income (business expenses) and are not included in the corporate excise's measure of income; such deductions are not tax expenditures. Other deductions, which do not reflect business expenses, but permit income to escape taxation permanently, do constitute tax expenditures.

Accelerated Deductions from Gross Income: In a number of cases, corporations are allowed to deduct business expenses from gross income at a time earlier than such expenses would ordinarily be recognized under accepted accounting principles. The total amount of the permissible deduction is not increased but it can be utilized more quickly to reduce taxable income. The result is to defer taxes, thus in effect occasioning an interest-free loan from the state to the taxpayer.

Adjustments to Apportionment Formula: In the case of a business that earns income both inside and outside the Commonwealth, an apportionment formula is used to determine what portion of the total business income to allocate to Massachusetts for calculation of the corporate excise. When the standard formula is adjusted to reduce the apportionment factor for certain businesses, a tax expenditure results. The practical effect is to exclude a portion of those businesses' income from taxation.

Exclusions from Property Component: In addition to the excise based on income, corporations pay a component of the excise based on the value of their property in the state. To the extent that certain classes of property are not included in the excise's property measure, tax expenditures result.

Credits Against Tax: After a corporation's basic tax liability has been computed, it may subtract certain credit amounts in determining the actual amount of taxes due. It is important to note that, whereas one-dollar exclusion or deduction results in tax savings of only a few cents (one dollar times the applicable tax rate), one-dollar credit results in one-dollar tax savings.

Entity Exempt from Taxation: In some cases, a business or other entity may be completely exempt from taxation. To the extent business or investment income goes untaxed, tax expenditures result.

List of Corporate Excise Tax Expenditures

2.000 EXCLUSIONS FROM GROSS INCOME

2.001 Small Business Corporations

In general, corporations organized under, or subject to, Chapters 156, 156A, 156B, 156C, 156D or 180 of Massachusetts General Laws (M.G.L.) or have privileges, powers, rights or immunities not possessed by individuals or partnerships are subject to corporate excise. Certain corporations with no more than 100 shareholders may elect to be taxed, for both federal and state tax purposes, as "S corporations." The earnings of an S corporation with total receipts of less than \$6 million are not generally subject to taxation at the corporate level. S corporations with total receipts of \$6 million or more are subject to a reduced corporate excise: 3% if receipts are \$6 million or more but less than \$9 million and 4.5% if receipts are \$9 million or more. In addition, S corporation net earnings (and losses) are attributed directly to shareholders (whether or not they are distributed as dividends) and are taxed at the individual shareholder level, generally at the applicable personal income tax rate (5.85% in tax year 2000, 5.6% in tax year 2001, 5.3% in tax years 2002 and thereafter). By contrast, ordinary corporate earnings are taxed twice: once when earned by the corporation at a 9.5% rate(*), and once when distributed to shareholders in the form of dividends, which are generally taxable at the applicable personal income tax rate.

The difference between the manner in which income is taxed to an ordinary business corporation (including its shareholders) and an S corporation and its shareholders constitutes a tax expenditure. Massachusetts first adopted this treatment of corporations in 1986.

(*) See Appendix A for further details on corporate rate change.

Origin: IRC § 1361-1363 and M.G.L. c. 62, IRC § 17A and c. 63, IRC § 32D, LR 99-17.

Estimate: \$58.6

- 2.002 Exemption of Income from the Sale, Lease or Transfer of Certain Patents
Income from the sale, lease or other transfer of approved patents for energy conservation, and royalties and income from the sale, lease or other transfer of property subject to such patents are excluded from gross income for a period of five years.

Origin: M.G.L. c. 63, IRC § 30(5)(a)
Estimate: N.A.

2.100 DEFERRALS OF GROSS INCOME

- 2.101 Deferral of Tax on Certain Shipping Companies
Certain shipping companies receive up to a 25-year deferral of tax on that portion of their net income, which is set aside for construction, modernization, and major repair of ships.

Origin: 46 U.S.C. § 1177 and IRC § 7518
Estimate: \$0.1

2.200 DEDUCTIONS FROM GROSS INCOME

- 2.201 Charitable Deduction
In computing net income, corporations may deduct charitable donations up to 10% of taxable income computed without the deductions. There is a carryover of excess contributions available for five succeeding taxable years.

Origin: IRC § 170
Estimate: \$88.2

- 2.203 Net Operating Loss Carry-Over
Taxpayers may carry-over for no more than five years (but not carry back) net operating losses (NOL) as defined under section 172 of the Internal Revenue Code.

Origin: IRC § 172 and M.G.L. c. 63, §§ 305(b) and (ii)
Estimate: \$90.4

- 2.204 **Excess Natural Resource Depletion Allowance**
Taxpayers in extractive industries (mining or drilling for natural resources) may deduct a percentage of gross mining income as a depletion allowance ("percentage depletion") even if the cost basis of the property has been reduced to zero. The deduction may not exceed 50% (in some cases, 65%) of net income from the property. In the case of oil and gas, percentage depletion is available only to domestic oil and gas sold by "independent producers" (nonintegrated companies). The excess of the deduction available using the percentage of gross income method of depletion over a depletion deduction based on cost is a tax expenditure.
- Origin: IRC §§ 613 and 613A
Estimate: \$0.0
- 2.205 **Deduction for Certain Dividends of Cooperatives**
Farmers' cooperatives and certain corporations acting as cooperatives may deduct patronage dividends and other amounts from gross income. Cooperatives meeting certain requirements may deduct dividends on capital stock and certain payments to patrons such as investment income. Under generally accepted rules for taxing corporations, the corporation cannot deduct dividends paid to shareholders.
- Origin: IRC §§ 1381-1388
Estimate: N.A.
- 2.206 **Abandoned Building Renovation Deduction**
Businesses renovating eligible buildings in Economic Opportunity Areas may deduct 10% of the cost of renovation from gross income. This deduction may be in addition to any other deduction for which the cost of renovation may qualify. To be eligible for this deduction, renovation costs must relate to buildings designated as abandoned by the Economic Assistance Coordinating Council.
- Origin: M.G.L. c. 63, § 38O
Estimate: \$0.1

2.300 ACCELERATED DEDUCTIONS FROM GROSS INCOME

2.301 Accelerated Depreciation on Rental Housing

Landlords and investors in rental housing may use accelerated methods of depreciation for new and used rental housing. Rental housing placed in service after 1986 is depreciated on a straight-line basis over a 27.5 year period. Rental housing placed in service before 1987 was depreciable over shorter periods (generally 19 or 20 years), and, instead of straight-line depreciation, the 175% declining balance method was permitted. Straight-line depreciation over the property's expected useful life is the generally accepted method for recovering the cost of buildings. The excess of allowable depreciation over such generally accepted depreciation is a tax expenditure, resulting in a deferral of tax or an interest-free loan.

Origin: IRC § 168

Estimate: \$2.9

2.302 Accelerated Depreciation for Rehabilitation of Low-Income Housing

Expenditures made for the rehabilitation of low-income rental housing may be depreciated over a five-year period, using the straight-line method of depreciation and ignoring salvage value, if the expenditures are made under a binding contract in existence before 1987. Generally, the aggregate expenditures qualifying for the deduction cannot exceed \$20,000 per unit, though they must equal at least \$3,000 per unit over two consecutive years. Any remaining cost may be depreciated under the accelerated methods described in item 2.301. The accelerated recovery of costs which otherwise would be depreciable over a longer period amounts to a deferral of tax or an interest-free loan.

Origin: IRC § 167(k)

Estimate: N.A.

2.303 Expensing for Removal of Barriers to the Handicapped

Taxpayers may elect to deduct up to \$35,000 of the costs of removing architectural or transportation barriers to the handicapped in the year these costs are incurred. The immediate deduction of these expenditures, which would otherwise have to be capitalized and depreciated over a longer period, results in a deferral of tax or an interest-free loan.

Origin: IRC § 190

Estimate: \$0.2

- 2.304 Five-Year Amortization of Start-Up Costs
Taxpayers may elect to treat certain capital costs of starting a business as deferred expenses and amortize them over five years. Without the election, only costs for particular assets could be recovered through depreciation deductions. Other costs would be part of the basis in the business and generally could not be recovered until the business was sold or discontinued. The election to amortize these costs allows for a deferral of tax or an interest-free loan.
- Origin: IRC § 195
Estimate: \$0.3
- 2.305 The Accelerated Cost Recovery System (ACRS) for Equipment
For depreciable tangible personal property placed in service after 1980, capital costs must be recovered using the federal Accelerated Cost Recovery System (ACRS), which applies accelerated methods of depreciation over set periods. For property placed in service after 1986, the Federal Tax Reform Act of 1986 prescribes revised ACRS depreciation schedules, generally using double-declining balance depreciation over specified periods that are substantially shorter than actual useful lives. The excess of accelerated depreciation over what is considered to be normal depreciation for tangible personal property (double-declining balance over expected useful lifetimes) is a tax expenditure.
- Origin: IRC § 168
Estimate: \$189.5
- 2.306 Deduction for Excess First-Year Depreciation
Taxpayers may elect to expense certain business assets purchased during the taxable year. The total deduction cannot exceed \$125,000; for taxpayers whose investment in eligible assets exceeds \$500,000 in the year, the \$125,000 ceiling is reduced by \$1 for each dollar of investment above \$500,000. Any remaining cost may be depreciated according to ACRS as described in item 2.305. The immediate deduction results in a deferral of tax or an interest-free loan.
- Origin: IRC § 179
Estimate: \$0.6

- 2.307 Accelerated Depreciation on Buildings (other than Rental Housing)
Construction may be depreciated under methods which produce faster depreciation than economic depreciation. The precise rules have been changed repeatedly in recent years by revisions of the federal tax code. For structures (other than housing) placed in service after 1986, federal law requires straight-line depreciation over a 31.5 year life. The excess of accelerated depreciation over economic depreciation is a tax expenditure. For a more detailed description of accelerated depreciation, see item 2.301 above.

Origin: IRC § 168

Estimate: \$6.4

- 2.308 Expensing Research and Development Expenditures in One Year
Taxpayers may elect to treat research or experimental expenditures incurred in connection with a trade or business as immediately deductible expenses. Under generally accepted accounting principles, at least some of these costs would otherwise be treated as capital expenditures and depreciated or amortized over a period of years. Their immediate deduction results in a deferral of tax or an interest-free loan.

Origin: IRC § 174

Estimate: \$79.9

- 2.309 Expensing Exploration and Development Costs
Certain capital costs incurred in bringing a known mineral deposit into production are deductible in the year incurred. A portion of domestic mining exploration costs can also be expensed, although they will be recaptured if the mine reaches the production stage. Certain intangible drilling and development costs of domestic oil, gas, and geothermal wells are deductible when made, but to a certain extent may be recaptured upon disposition of oil, gas, or geothermal property to which they are properly chargeable. The immediate expensing of these costs, which would otherwise be capitalized and recovered through depreciation or through depletion as the natural resource is removed from the ground, results in a deferral of tax or an interest-free loan.

Origin: IRC §§ 193, 263(c), 616 and 617

Estimate: \$1.6

- 2.310 **Five-Year Amortization of Certain Operating Rights**
 Certain bus, trucking and shipping companies may amortize over a five-year period the cost of bus route, freight forwarding and certain other operating rights that have lost their economic value due to federal deregulation of these industries. The five-year amortization of these costs, which would otherwise be capitalized and recovered upon the sale of the business, results in a deferral of tax or an interest-free loan.
- Origin: Tax Reform Act of 1986, § 243
 Estimate: N.A.
- 2.311 **Five-Year Amortization of Pollution Control Facilities**
 Taxpayers may elect to amortize the cost of a certified pollution control facility over a five-year period, allowing for accelerated recovery of these costs. Accelerated recovery is only available for pollution control facilities subsequently added to plants that were in operation before 1976. The excess of accelerated recovery over depreciation deductions otherwise allowable results in a deferral of tax or an interest-free loan.
- Origin: IRC § 169
 Estimate: N.A.
- 2.312 **Expensing Certain Expenditures for Alternative Energy Sources**
 In determining net income, a corporation may elect to take an immediate deduction for expenditures made for certain solar or wind powered systems or units located in Massachusetts and used exclusively in the business, in lieu of all other deductions and credits including the deduction for depreciation. Without this provision, such expenditures would have to be capitalized and depreciated. The immediate deduction results in a deferral of tax or an interest-free loan.
- Origin: M.G.L. c. 63, § 38H
 Estimate: \$2.9
- 2.313 **Seven-Year Amortization for Reforestation**
 Taxpayers may elect to amortize reforestation costs for qualified timber property over a seven-year period. In the absence of this special provision, these costs would be capitalized and depreciated over a longer period or recovered when the timber is sold. The accelerated cost recovery results in a deferral of tax or an interest-free loan.
- Origin: IRC § 194
 Estimate: N.A.

2.400 ADJUSTMENTS TO APPORTIONMENT FORMULA

2.401 Unequal Weighting of Sales, Payroll, and Property in the Apportionment Formula

Corporations with a presence in Massachusetts and other states allocate income to the Commonwealth using a three-factor apportionment formula. A corporation's sales, payroll, and property in Massachusetts are compared to those outside Massachusetts.

Exporters benefit from an apportionment formula that weights sales more heavily than the other factors. Effective January 1, 1996, eligible defense corporations are allowed a formula that weights sales 100%. For other qualified manufacturers, a 100% sales weight was phased-in over five years, and was fully effective January 1, 2000. All corporations other than mutual fund corporations (see below) will continue to use a formula that weights sales 50%.

Effective January 1, 1997 mutual fund corporations are allowed to attribute mutual fund sales to Massachusetts based on the domicile of shareholders in the mutual funds. Effective July 1, 1997, mutual fund corporations are allowed to apportion their income to Massachusetts based solely on the percentage of sales to Massachusetts' residents.

Comment: In listing this item, it is assumed that a standard apportionment formula gives equal weight to sales, property and payroll. The estimate is of the impact of departing from this standard formula.

Origin: M.G.L. c. 63, § 38 (c)

Estimate: \$318.5

2.500 EXCLUSIONS FROM PROPERTY COMPONENT

2.501 Nontaxation of Certain Energy Property

Tangible property qualifying for the deduction for expenditures for alternative energy described in item 2.312 above is not subject to taxation under the tangible property measure of the corporate excise.

Origin: M.G.L. c. 63, § 38H(f)

Estimate: N.A.

2.502 Exemption for Property Subject to Local Taxation

In computing the state corporate excise on tangible property, property subject to tax at the local level is exempt. Generally, the state taxes only the machinery of manufacturing corporations and exempts business real estate and tangible personal property.

Comment: For purposes of estimating revenue loss from this tax expenditure,

the state's rate on property, \$2.60 per \$1,000, has been applied.

Origin: M.G.L. c. 63, § 30(7)
Estimate: \$135.7

2.600 CREDITS AGAINST TAX

2.602 Investment Tax Credit

Manufacturing corporations, research and development corporations and corporations engaged primarily in agriculture or commercial fishing are entitled to a credit against tax for investments in qualified tangible property. The amount of the credit is 3% of the cost or other basis of the property for federal income tax purposes. Total credits taken by a given corporation in a taxable year cannot exceed 50% of tax liability. Unused credits may be carried over to subsequent years. If property qualifying for the investment credit is disposed of or no longer in use, a corporation must repay in the year of disposition the portion of the credit allocable to the remaining useful life of the property.

Comment: To be consistent with all other estimates in this document, this estimate is based on actual investment tax credit claims of corporations from the most recent Corporate Excise Returns Report, and does not take into account increased tax revenues resulted from greater economic activity induced by the investment tax credit (i.e., the estimate is "static", not "dynamic").

This item includes the estimated amount of unused credits carried forward from prior years and actually used during the fiscal year for which the estimate is being made.

Origin: M.G.L. c. 63, § 31A
Estimate: \$47.0

2.603 Vanpool Credit (VPC)

A corporation may take a credit against excise due equal to 30% of the cost incurred during the taxable year for the purchase or lease of company shuttle vans used in the Commonwealth for employee transportation.

This item includes the estimated amount of unused credits carried forward from prior years but actually used during the fiscal year for which the estimate is being made.

Origin: M.G.L. c. 63, §§ 31D, 31E, and 31F
Estimate: \$0.1

2.604 Research Credit

Corporations are entitled to a credit against tax for research and development expenditures. The amount of the credit is equal to the sum of 10% of qualified research expenses each year in excess of a base amount, and 15% of basic research payments, in excess of a base amount. The credit is limited to the first \$25,000 of excise plus 75% of any excise in excess of \$25,000. Unused credits may be carried over to subsequent years. Effective January 1, 1995, qualified defense corporations may calculate this credit separately for defense related research expenditures and non-defense-related expenditures.

Origin: M.G.L. c. 63, § 38M
Estimate: \$71.8

- 2.605 Economic Opportunity Area Credit (EOAC)
Businesses investing in qualified property in an Economic Opportunity Area are entitled to a credit against tax of 5% of the cost of the property. To qualify for the 5% credit, the property must be used exclusively in a certified project in an Economic Opportunity Area. To be certified, the Economic Assistance Coordinating Council must approve a project.

This item includes the estimated amount of unused credits carried forward from prior years but actually used during the fiscal year for which the estimate is being made.

Origin: M.G.L. c. 63, § 38N
Estimate: \$14.6

- 2.606 Credit for Employing Former Full-Employment Program Participants
Employers who continue to employ former participants of the §110(1) full employment program in non-subsidized positions are eligible to receive a tax credit equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year.

Origin: St. 1995, c. 5, § 110(m)
Estimate: Negligible

- 2.607 Credit for Harbor Maintenance Taxes Paid
Effective July 1, 1996, a credit against the corporate excise is provided for federal harbor maintenance taxes paid.

Origin: M.G.L. c. 63, § 38P
Estimate: \$1.3

2.608 Brownfields Credit

Effective for tax years beginning on or after January 1, 1999, taxpayers are allowed a credit for amounts expended to rehabilitate contaminated property owned or leased for business purposes and located within an economically distressed area. The amount of the credit varies according to the extent of the environmental remedy. If the taxpayer's permanent solution or remedy operation status includes an activity and use limitation, then the amount of the credit is 25% of the net response and removal costs incurred by the taxpayer. However, if there is no activity and use limitation, then the amount of the credit is 50% of the net response and removal costs. Chapter 123 of the Acts of 2006, extended the availability of the Brownfields credit to a nonprofit organization, made the credit transferable, and lengthened the time frame for eligibility for the credit. Prior to the Act, net response and removal costs that the taxpayer incurred between August 1, 1998 and August 5, 2005 were eligible for the credit provided that the taxpayer commenced and diligently pursued an environmental response action before August 5, 2005. The Act changed this cut-off date from August 5, 2005 to August 5, 2011, and extends the time for incurring eligible costs that qualify for the credit to January 1, 2012.

Origin: M.G.L. c. 63, § 38Q, St. 2006, c. 123, §§ 49 and 63

Estimate: \$2.8

2.609 Low Income Housing Credit

Effective January 1, 2001, a credit against the corporate excise is provided for low-income housing projects. The Department of Housing and Community Development allocates the low income housing credit from a pool of available credits granted under section 42 of the Internal Revenue Code among qualified low-income housing projects. A taxpayer allocated a federal low-income housing credit may also be eligible for a state credit based on the credit amount allocated to a low-income housing project that the taxpayer owns. The credits may be sold or transferred to another taxpayer.

Many of these credits are claimed by financial institutions and insurance companies, which are not included in this tax expenditure budget. The Department of Revenue estimates that in fiscal year 2009 approximately \$17.5 million in low income housing credits were claimed by financial institutions and insurance companies in addition to \$1.7 million that was claimed by corporations. The Department estimates that in fiscal year 2010 approximately \$17.2 million in low income housing credits will be claimed by financial institutions and insurance companies in addition to \$1.8 million claimed by corporations, and that in fiscal year 2011 approximately \$17.2 million will be claimed by financial institutions and insurance companies, in addition to the amount shown for corporations in this tax expenditure. (See Item 1.607)

Origin: M.G.L. c. 63, § 31H

Estimate: \$1.8

2.610 Historic Buildings Rehabilitation Credit

If a structure is listed on the National Historic Register and has been substantially rehabilitated in keeping with its historical character, it may qualify

for this credit. To qualify, the project must be certified by the Massachusetts Historical Commission, which determines the amount of qualifying expenditures. The start date for the credit is January 1, 2005, with an end date of December 31, 2009. Filers may claim up to 20% of their qualified rehabilitation expenditures. Credits may be carried forward for up to 5 years. The expenditure for this item (combined with the Historic Rehabilitation Credit for individual filers, item 1.610) was originally capped at \$15 million per year, with a start date for the credit of January 1, 2005 and an end date of December 31, 2009. Chapter 123 of the Acts of 2006 extended the availability of the credit for an additional two years, to December 31, 2011, and increased the annual \$15 million cap amount to \$50 million. The credits may be sold or transferred to another taxpayer. The Department of Revenue estimates that in fiscal years 2009, 2010, and 2011, in addition to \$21.3 million that was claimed by corporations, approximately \$26.3 million in historic buildings rehabilitation credits were claimed by financial institutions and insurance companies, which are not included in this tax expenditure budget.

Origin: M.G.L. c. 63, § 38R, St. 2006, c. 123, §§ 51 and 65
Estimate: \$21.3

- 2.611 **Jobs Incentive Payment for Biotechnology and Medical Device Companies**
A biotechnology or medical device manufacturing company that creates 10 or more eligible jobs in the commonwealth during a single calendar year shall be entitled to a jobs incentive payment if its weighted average employment for such year reflects a net increase of at least 10 jobs over the company's weighted average employment for the prior calendar year. The jobs incentive payment shall be equal to 50% multiplied by the applicable Massachusetts income tax rate for the salary paid to the persons who perform the newly created eligible jobs for the calendar year in question. Effective for tax years beginning on or after January 1, 2006, Chapter 123 of the Acts of 2006 expands the job incentive payment program to include marine science technology companies.

Origin: M.G.L. c. 62C, § 67D, St. 2006, c. 123, §§ 56, 57 and 58
Estimate: Negligible

- 2.612 **Solar Heat Credit**
Massachusetts allows a credit of up to \$300 for the installation of a solar hot water heating system in a commercial building between November 1, 2005 and March 31, 2006.

Origin: M.G.L. c. 63, § 38T. For further information, see TIR 05-18. St. 2005, c. 140, § 9 amending M.G.L. c. 63 by inserting new section 38T
Estimate: Expired

- 2.613 **Home Energy Efficiency Credit**
The owner of residential property located in Massachusetts was allowed a credit for certain energy efficient items purchased between November 1, 2005 and March 31, 2006 for installation in residential property. Qualifying purchases included home insulation, new window insulation, advanced programmable thermostats, solar hot water systems, fuel-efficient furnaces, boilers, oil, gas, propane or electric heating systems, certain weather sealing and other approved purchases.

The credit allowed for the installation of qualifying purchases for any one residential building was 30% of the cost. The credit could not exceed \$600 for a single residential unit or \$1000 for a multi-dwelling unit. Joint owners of a residential property could share any credit available to the property in the same proportion as their ownership interest. The credit allowed under this section could be taken in either 2005 or 2006, regardless of the exact date on which the qualifying purchase was made. The amount of credit that exceeds the tax due for 2005 could be carried over, as reduced, and applied to the tax liability for 2006.

Origin: For further information, see TIR 05-18 and "Act Relative to Heating Energy Assistance and Tax Relief", St. 2005, c. 140, signed into law on November 22, 2005; M.G.L. c. 63
Estimate: Expired

2.614 Film (or Motion Picture) Credit

Corporations engaged in the making of a motion picture are allowed two credits:

a) *Payroll credit*: This is a credit for the employment of persons within the Commonwealth in connection with the filming or production of 1 or more motion pictures in the Commonwealth within any consecutive 12 month period. The credit is equal to 25 per cent of the total aggregate payroll paid by a motion picture production company that constitutes Massachusetts source income, when total production costs incurred in the commonwealth equal or exceed \$50,000 during the taxable year. The term "total aggregate payroll" may not include the salary of any employee whose salary is equal to or greater than \$1,000,000.

b) *Non-payroll production expense credit*: Individual income tax filers are also allowed a credit equal to 25 per cent of all motion picture related Massachusetts production expenses, not including the payroll expenses used to claim the aforementioned payroll credit. To be eligible for this credit, either Massachusetts motion picture production expenses must exceed 50 per cent of the total production expenses for a motion picture or at least 50 per cent of the total principal photography days of the film take place in the Commonwealth.

These tax credits are refundable at 90% of the approved credit amounts, or the amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 5 subsequent taxable years. Additionally, all or any portion of tax credits issued may be transferred, sold or assigned to other taxpayers with tax liabilities under chapter 62 (the individual income tax) or chapter 63 (the corporate or other business excise taxes). For applications submitted prior to January 1, 2007, film tax credits were capped at \$7,000,000 for any one motion picture production has; for applications submitted on or after January 1, 2007, there is no cap. Also, the sunset date for the film incentives statute has been extended from January 1, 2013 to January 1, 2023. See TIR 07-15 for more information (See also item 1.611.)

The Department of Revenue estimates that financial institutions and insurance companies will claim \$99.5 million in fiscal year 2010 and \$38.3

FY2011 Governor's Budget Recommendation

million in fiscal 2011 in film tax credits, which are not covered in this tax expenditure budget. This is in addition to the \$10.1 million that will be claimed by corporations and is shown in this tax expenditure.

Governor's fiscal year 2011 Budget proposal would set a \$50 million cap on total allowable film credits.

Origin: See "An Act Providing Incentives to the Motion Picture Industry", St. 2005, c. 158, signed into law on November 23, 2005 and "An Act Providing Incentives to the Motion Picture Industry", St. 2007, c. 63; M.G.L. c. 63
Estimate: \$10.1

2.615 Medical Device User Fee Credit

For taxable years beginning on or after January 1, 2006, the Medical Device Credit is equal to 100% of the user fees actually paid to the United States Food and Drug Administration (USFDA) by a medical device company during the taxable year for which the tax is due for pre-market submissions (e.g., applications, supplements, or 510(k) submissions) to market new technologies or upgrades, changes, or enhancements to existing technologies, developed or manufactured in Massachusetts.

Origin: M.G.L. c. 63, § 31L, TIR 06-22, The Chapters 144 and 145 of the Acts of 2006
Estimate: \$3.2

2.616 Devens Refundable Tax Credit

Effective July 21, 2006, the Economic Opportunity Area credit is made refundable for certain projects. Notwithstanding subsections (b) to (d), inclusive, of section 38N of chapter 63 of the General Laws, in the event that a credit allowed under said section 38N of said chapter 63 exceeds the tax otherwise due under said chapter 63, the balance of that credit shall be refundable to the taxpayer in the taxable year in which qualified property giving rise to that credit is placed in service. This applies to credits generated by projects in the biotechnology industry, certified on or after June 1, 2006 and before June 1, 2008. "Project" means the design, planning, permitting, site preparation, construction, development, and operation of infrastructure and other improvements, including demolition of existing structures and design and construction of necessary replacement structures on adjacent or proximate land, and upgrades to the existing electric and gas utility systems serving the *Devens Regional Enterprise Zone*, as established by chapter 498 of the acts of 1993, to support the operation of a large scale biologics pharmaceutical manufacturing facility, or reasonably required to facilitate complete development, construction, and operation of such a facility. (See item 2.605)

Origin: M.G.L. c. 63, § 31N, The Chapter 173 of the Acts of 2006
Estimate: \$6.0

2.617 Life Sciences Tax Incentive Program

On June 16, 2008, "An Act Providing for the Investment in and Expansion of the Life Sciences Industry in the Commonwealth" (the Act) (St. 2008, c. 130) was passed. The Act establishes the Life Sciences Investment Program as well as the Life Sciences Tax Incentive Program pursuant to chapter 23I of the General Laws. See St. 2008, c. 130, § 13, codified at G.L. c. 23I, § 5(a), (d),

respectively. It provides for a one billion dollar investment in the life sciences sector, including \$25 million each year for 10 years for the Massachusetts Life Sciences Investment Fund established by G.L. c. 23I, § 6 (subject to yearly appropriation by the Massachusetts Legislature), and \$25 million each year for 10 years in various tax incentives for qualifying life sciences companies on a competitive basis (subject to required authorizations by the Massachusetts Life Sciences Center and to approval by the Secretary of Administration and Finance). These incentives are effective from January 1, 2009 through December 31, 2018. St. 2008, c.130, §§ 52-54. The various tax incentives include the following: Life Sciences Investment Tax Credit (ITC), FDA User Fees Credit, Extension of Net Operating Losses (NOLs) from 5 to 15 years, Elimination of the Throwback Provision in the Sales Factor Used in Apportioning Corporate Income, Refundable Research Credit, Life Sciences Research Credit, Deduction for Qualified Clinical Testing Expenses for Orphan Drugs, Life Sciences Companies Deemed to be Research and Development Corporations for Sales Tax Purposes, Sales Tax Exemptions for Property for Use in the Development of Certain Facilities and Utility Systems.

Since the tax expenditures in this item will be subject to approval and their composition will differ from year-to-year, it is not known what proportion will be in the form of corporate tax credits as opposed to other tax expenditures. However, the Department of Revenue believes that the largest portion of the tax expenditure will be in the form of corporate tax credits, has placed it in this section of the tax expenditure budget. Governor's fiscal year 2011 Budget proposal would reduce the annual cap from \$25 million to \$20 million in fiscal year 2011.

Origin: M.G.L. c. 62, 63, Chapter 130 of the Acts of 2008. DOR-TIR 08-23

For more information, see www.mass.gov/dor

Estimate: \$20.0

2.618 Dairy Farmers Credit

A taxpayer who holds a certificate of registration as a dairy farmer pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The total cumulative value of the credits authorized pursuant to this section combined with section 6 (o) of Chapter 62 shall not exceed \$4,000,000 annually.

Origin: M.G.L. c. 63, § 38Z, Chapter 310 of the acts of 2008, Sec. 6.

Estimate: \$1.8

2.700 ENTITY EXEMPT FROM TAXATION

2.701 Exemption of Credit Union Income

Credit unions, which are in effect mutual business organizations, are considered tax-exempt organizations for federal income tax purposes and therefore are exempt from the corporate excise as well.

FY2011 Governor's Budget Recommendation

Comment: The estimate applies to state-chartered credit unions only.

Origin: IRC § 501(c)(14)(A) and M.G.L. c. 63, § 30(1)

Estimate: \$3.4

2.702 Tax-Exempt Organizations

Corporations considered to be tax-exempt under section 501 of the Internal Revenue Code (such as religious, scientific and educational organizations) are exempt from tax under the corporate excise. The non-taxation of their net income and property creates a tax expenditure.

Origin: IRC § 501 and M.G.L. c. 63, § 30(1)

Estimate: N.A.

2.703 Exemption for Regulated Investment Companies

Corporate Regulated Investment Companies are exempt from the corporate excise. The non-taxation of their net income and property creates tax expenditure.

Origin: M.G.L. c. 63, §§ 30 and 38B

Estimate: N.A.

KEY: ORIGIN

IRC Federal Internal Revenue Code (26 U.S.C.)

M.G.L. Massachusetts General Laws

U.S.C. United States Code

ESTIMATES

All estimates are in \$ millions.

Massachusetts imposes a sales and use tax on retail sales. In addition to the sales and use tax, there are several separate excises, each limited to a particular type of commodity. These special excises have not been included in this tax expenditure budget.

The Massachusetts sales and use tax, first imposed in 1966, was levied at a rate of 5%. Effective on and after August 1, 2009, the rate is changed from 5% to 6.25%. The sales tax applies to sales made within the state, and the use tax to property and services purchased outside of Massachusetts but intended for use within the state.

Revenue from the sales and use tax represented 21.2% of total Department of Revenue tax collections for Fiscal Year 2009, and was the second largest source of tax revenue after the income tax.

Sales and Use Tax: Basic Structure

Tax Base: For the purposes of this tax expenditure budget, we have chosen not to make any assumptions about the base of the Massachusetts sales and use tax. Some people take a narrow view of what a retail sale is, limiting the term to sales to final consumers, i.e., individuals. Others would include sales to businesses, especially in instances where the purchase will not become an ingredient or component in a product to be sold. In an effort to acknowledge both theories, we will simply list the various exemptions under the sales tax. Some or many of these exemptions could be considered to be properly excluded from the tax base depending upon one's point of view.

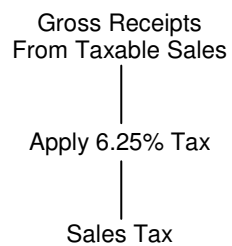
Taxable Unit: The sales and use tax is an *in rem* tax; that is, it is levied on the property or service to be sold or used.

Rate Structure: The sales and use tax rate is 6.25% of the price.

Taxable Period: The tax is imposed at the time of sale and remitted at specified intervals by the vendor. The use tax is paid directly to the Department of Revenue by the user of the item, and may be paid annually or more often.

Interstate and International Aspects: Massachusetts applies the destination principle to international and interstate sales. Accordingly, exports are exempt and imports are taxable under the sales and use tax. Statutory exemptions for exports of property and for services used outside of the Commonwealth are therefore not listed as tax expenditures.

Computation of Massachusetts Sales and Use Tax by Vendor*



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- * A purchaser is also responsible for paying use tax directly to the Commonwealth on the sales price of taxable property or services purchased out-of-state and stored, used, or otherwise consumed in the Commonwealth, provided that a sales and use tax of 6.25% or more has not been paid separately to another state.
-

Types of Tax Expenditures under the Sales Tax

In the case of the sales tax, all tax expenditures are of a single type. They all result from the exclusion of certain transactions from the taxable base. The exclusion can be based on any of a number of characteristics of the transaction - who the buyer is, who the seller is, what the product or service is, what the product or service will be used for, etc. - but structurally all such tax expenditures operate in the same way. Hence, we have omitted the designation of tax expenditure types from the descriptions in this section.

List of Sales and Use Tax Expenditures

3.000 EXEMPT ENTITIES

- 3.001 Exemption for Sales to the Federal Government
Sales to the federal government are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(d)
Estimate: N.A.

- 3.002 Exemption for Sales to the Commonwealth
Sales to the Commonwealth, its agencies and political subdivisions are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(d)
Estimate: N.A.

- 3.003 Exemption for Sales to Tax-Exempt Organizations
Non-profit organizations are exempt from sales tax on purchases of goods and services to be used in carrying out their tax-exempt purposes.

Comment: This estimate excludes sales of building materials and supplies used in construction contracts, which are covered under item 3.412.

Origin: M.G.L. c. 64H, § 6(e) and (x)
Estimate: \$378.2

- 3.004 Exemption for Sales of Tangible Personal Property to Motion Picture Production Companies
Sales of tangible personal property to a qualifying motion picture production company or to an accredited film school student for the production expenses related to a school film project are exempt from the sales tax.

Origin: M.G.L. c. 64H, § 6(ww)
Estimate: \$0.5

3.100 EXEMPT PRODUCTS/SERVICES

3.101 Exemption for Food

Food for human consumption is exempt from sales tax, including food purchased with federal food stamps. The exemption does not cover meals served in restaurants and similar establishments. Meals are taxed under the sales tax at a rate of 6.25%. The Governor's fiscal year 2011 Budget proposal would eliminate the sales tax exemption on candy and soft drinks. The estimate for this item reflects the fiscal year 2011 value of this change. The Department of Revenue estimates that, as a result of this change, the state would collect \$61.6 million in fiscal year 2011 in additional revenues (10 month impact).

Origin: M.G.L. c. 64H, § 6(h) and (kk)

Estimate: \$587.6

3.102 Exemption for Certain Food and Beverages Sold in Restaurants

Although generally food and beverages sold in restaurants are taxed, there are certain exceptions. These are: a) food sold by weight, measure, count, or in unopened original containers or packages (for example, milk, meat, bread); b) beverages in unopened original containers which have a capacity of at least 26 fluid ounces; and c) bakery products sold in units of six or more.

Origin: M.G.L. c. 64H, § 6(h)

Estimate: N.A.

3.103 Exemption for Clothing

Sales of clothing or footwear up to \$175 per item are exempt from sales tax. The exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses.

Origin: M.G.L. c. 64H, § 6(k)

Estimate: \$268.7

3.104 Exemption for Medical and Dental Supplies and Devices

Medical and dental supplies and devices, such as prescription drugs, oxygen, blood, artificial limbs and eyeglasses, are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(l) and (z)

Estimate: \$419.2

- 3.105 Exemption for Water
Sales and service of water are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(i)
Estimate: \$42.7
- Comment: This estimate excludes sales of bottled water, which are included under item 3.101.
- 3.106 Exemption for Newspapers and Magazines
Newspapers and magazines are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(m)
Estimate: \$35.9
- 3.107 Exemption for the American Flag
The American flag is exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(w)
Estimate: N.A.
- 3.108 Exemption for Certain Precious Metals
Sales valued at \$1,000 or more of the following precious metals are exempt from the sales tax: rare coins of numismatic value; gold or silver bullion or coins; and gold or silver tender of any nation which is traded and sold according to its value as precious metal. Fabricated precious metals that have been processed or manufactured for industrial, professional, or artistic use do not qualify for the exemption.
- Origin: M.G.L. c. 64H, § 6(II)
Estimate: N.A.
- 3.109 Exemption for Cement Mixers
Concrete mixing units mounted on the back of trucks are exempt from sales tax. Spare parts for such units are also exempt. The truck chassis is subject to sales tax.
- Origin: M.G.L. c. 64H, § 6(y)
Estimate: N.A.

- 3.112 Exemption for Aircraft & Aircraft Parts
Airplanes, helicopters, balloons and other aircraft are exempt from sales tax. Also exempt are parts used exclusively for the repair of aircraft. Governor's fiscal year 2011 Budget proposal would eliminate the aircraft exemption (excluding aircraft parts). The figure below reflects this change.

Origin: M.G.L. c. 64H, § 6(uu) and (vv)
Estimate: \$8.1

3.200 EXEMPT, TAXED UNDER ANOTHER EXCISE

- 3.201 Exemption for Alcoholic Beverages
Alcoholic beverages, except those sold as part of a meal, were exempt from sales tax through July 30, 2009. But effective August 1, 2009, this exemption was repealed. Alcoholic beverages are also subject to an excise tax determined by volume.

Origin: M.G.L. c. 64H § 6(g)
Estimate: \$0.0

Comment: Revenues collected under the alcoholic beverages excise were \$71.17 million in Fiscal Year 2008 and \$71.85 million in Fiscal Year 2009.

- 3.202 Exemption for Motor Fuels
Motor fuels are exempt from sales tax. They are subject to an excise at a rate higher than 6.25% of the retail price. The estimate represents revenues that would be collected under the sales tax if motor fuels were taxed at 6.25% of the retail price. The Massachusetts motor fuels tax rate is \$0.21 per gallon of gasoline or diesel fuel.

Origin: M.G.L. c. 64H, § 6(g)
Estimate: \$570.7

Comment: Revenues collected under the motor fuels excise were \$672.7 million in Fiscal Year 2008 and \$654 million in Fiscal Year 2009.

3.203 Exemption for Hotel/Motel Rooms

Rental charges for real property are exempt from sales tax. However, rentals of rooms in hotels, motels or lodging houses are subject to a state excise at a rate of 5.7% of the rental price, and, at a municipality's option, to a local excise of up to 6% of the rental price (6.5% in the city of Boston). A Convention Center financing fee of 2.75% is also included in certain areas.

Origin: General exclusion of real property transactions
Estimate: \$130.0

Comment: Revenues collected under the budgeted state room excise were \$119.1 million in Fiscal Year 2008 and \$109.5 million in Fiscal Year 2009.

3.300 EXEMPT COMPONENT OF A PRODUCT OR CONSUMED IN PRODUCTION**3.301 Exemption for Items Used in Making Clothing**

Sales of materials used in making clothes, such as thread and fabric, are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(v)
Estimate: N.A

3.302 Exemption for Materials, Tools, Fuels and Machinery Used in Manufacturing
Materials, tools, fuels and machinery, including spare parts, used in manufacturing are exempt from sales tax if they become components of a product to be sold or are consumed or directly used in the manufacturing process.

Origin: M.G.L. c. 64H, § 6(r) and (s)
Estimate: N.A

3.303 Exemption for Materials, Tools, Fuels and Machinery Used in Research and Development

Materials, tools, fuels and machinery, including spare parts, used in research and development by certified manufacturing or research and development corporations are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(r) and (s)
Estimate: \$85.4

3.304 Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power

Materials, tools, fuels, and machinery, including spare parts, used in furnishing gas, water, steam, or electricity to consumers through mains, lines or pipes are exempt from sales tax if they are consumed or directly used in furnishing the power.

Origin: M.G.L. c. 64H, § 6(r) and (s)
Estimate: \$173.1

Comment: Estimate excludes costs associated with the natural gas industry due to a lack of reliable data.

- 3.306 Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing
Materials, tools, fuels, and machinery, including spare parts, used in newspaper printing are exempt from sales tax if they become components of a product to be sold or are consumed or directly used in newspaper publishing.

Origin: M.G.L. c. 64H, § 6(r) and (s)

Estimate: \$61.5

- 3.308 Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production
Materials, tools, fuels, and machinery, including spare parts, used in agricultural production are exempt from sales tax if they become components of products to be sold or are consumed or directly used in agricultural production. The exemption includes the same items when used for the production of livestock, poultry and animals in research. Also included are seeds and plants used to grow food for human consumption outside the agricultural industry (e.g., by home gardeners).

Origin: M.G.L. c. 64H, § 6(r), (s) and (p)

Estimate: \$10.4

- 3.309 Exemption for Vessels, Materials, Tools, Fuels, and Machinery Used in Commercial Fishing
Materials, tools, fuels, and machinery, including spare parts, used in commercial fishing are exempt from sales tax if they become components of a product to be sold or are consumed or directly used in commercial fishing.

Origin: M.G.L. c. 64H, § 6(r), (s) and (o)
Estimate: \$8.8

- 3.310 Exemption for Materials, Tools, Fuels and Machinery Used in Commercial Radio and TV Broadcasting
Materials, tools, fuels and machinery, including spare parts, used in commercial radio and TV broadcasting are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(r) and (s)
Estimate: N.A.

3.400 EXEMPTIONS FOR SPECIFIED USES OF PRODUCTS/SERVICES

- 3.401 Exemption for Electricity
Residential electricity, electricity purchased by businesses with five or fewer employees, and electricity purchased for qualified industrial use are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(i) and (qq)
Estimate: \$308.0

- 3.402 Exemption for Fuel Used for Heating Purposes
Residential heating fuel, heating fuel purchased by businesses with five or fewer employees, and heating fuel purchased for qualified industrial use are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(j) and (qq)
Estimate: \$83.4

Comment: This estimate is based on purchases of heating oil only; natural gas is included in item 3.403.

- 3.403 Exemption for Piped and Bottled Gas
Residential gas, gas purchased by businesses with five or fewer employees, and gas purchased for qualified industrial use are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(i) and (qq)
Estimate: \$173.7
- Comment: Estimate is for piped gas only.
- 3.404 Exemption for Steam
Residential steam, steam purchased by businesses with five or fewer employees, and steam purchased for qualified industrial use are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(i) and (qq)
Estimate: \$14.4
- 3.405 Exemption for Certain Energy Conservation Equipment
Equipment for a solar, wind or heat pump system used as a primary or auxiliary energy source in a principal residence is exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(dd)
Estimate: N.A.
- 3.406 Exemption for Funeral Items
Coffins, caskets, and other funeral items are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(n)
Estimate: \$11.9
- 3.407 Exemption for a Motor Vehicle for a Paraplegic
A motor vehicle owned and registered for the personal use of a paraplegic is exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(u)
Estimate: \$1.2
- 3.408 Exemption for Textbooks
Textbooks and other books required for instruction in educational institutions are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(m)
Estimate: \$23.2

- 3.409 Exemption for Books Used for Religious Worship
Bibles, prayer books and other books used for religious worship are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(m)
Estimate: N.A.
- 3.410 Exemption for Containers
Most containers are exempt from sales tax. These include sales of empty returnable and non-returnable containers to be filled and resold, containers the contents of which are exempt from the sales tax, and returnable containers when sold with the contents or resold for refilling.
- Origin: M.G.L. c. 64H, § 6(q)
Estimate: \$159.1
- 3.411 Exemption for Certain Sales by Typographers, Compositors, Color Separators
Sales by typographers, compositors or color separators of composed type, film positives and negatives and reproduction proofs, or transfers of such items to a printer, publisher, or manufacturer of folding boxes for use in printing, are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(gg)
Estimate: N.A.
- 3.412 Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts
Materials and supplies used in connection with construction contracts with the United States and the Commonwealth of Massachusetts, or any of its subdivisions are tax exempt where the construction is for public purposes. Materials and supplies used in connection with construction contracts with a tax-exempt organization are tax exempt where the construction is to be used exclusively in carrying out the organization's charitable purpose. The exemption includes rentals of equipment as well.
- Origin: M.G.L. c. 64H, § 6(f)
Estimate: \$138.4
- 3.417 Exemption for Commuter Boats
Vessels, materials, tools, repair and spare parts used exclusively to provide scheduled commuter passenger service are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(pp)
Estimate: N.A.

- 3.418 Exemption for Fuels, Supplies and Repairs for Vessels Engaged in Interstate or Foreign Commerce
Fuels, supplies and repairs for vessels engaged in interstate or foreign commerce are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(o)
Estimate: \$0.6

- 3.419 Exemption for Fuel Used in Operating Aircraft and Railroads
Fuel used in operating aircraft and railroads is exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(j)
Estimate: \$40.3

Comment: At a community's option, kero-jet fuel may be subject to a local tax at 5% of average price or \$0.05 per gallon; whichever is higher.

- 3.420 Exemption for Sales of Certain New or Used Buses
New and used buses that provide scheduled intra-city local service and are used by common carriers certified by the Department of Telecommunications and Energy are exempt from sales tax. The exemption includes replacement parts, materials and tools used to maintain or repair these buses.

Origin: M.G.L. c. 64H, § 6(aa)
Estimate: N.A.

- 3.421 Exemption for Films
Motion picture films for commercial exhibition are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(m)
Estimate: N.A.

- 3.422 Exemption for Telephone Services
Sales of residential telecommunications services of up to \$30 per month are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(i)
Estimate: \$45.5

Comment: Telegraph services are also exempt, but are not included in this estimate.

3.500 EXEMPT NOT TAXABLE AS TANGIBLE PERSONAL PROPERTY

3.501 Nontaxation of Transfers of Real Property

Real estate is exempt from sales tax but is subject to a deeds excise at a rate of 0.456% of the taxable price of the property (0.342% in Barnstable County). The estimate represents revenues that would be collected under the sales tax if sales of real property were taxed at 6.25%.

Origin: General exclusion of real property transactions

Estimate: \$2,044.9

Comment: Revenues collected under the Deeds Excise Tax (including Secretary State Deeds) were \$153.7 million in Fiscal Year 2008 and \$105.5 million in Fiscal Year 2009.

3.502 Nontaxation of Rentals of Real Property

Rental charges for real property, whether for residential or business purposes, are exempt from sales tax.

Origin: General exclusion of real property transactions

Estimate: \$1,460.7

Comment: This estimate excludes rentals of hotel/motel rooms, which are separately stated under item 3.203.

3.503 Nontaxation of Certain Services

Certain services are not subject to sales tax. This estimate includes a range of services to individuals and businesses which are excluded from taxation by their omission from the statutory definition of services.

Origin: M.G.L. c. 64H § 1

Estimate: \$9,106.8

3.504 Nontaxation of Internet Access and Related Services

Internet access services, electronic mail services, electronic bulletin board services, web hosting services or similar on-line computer services are not subject to the sales and use tax.

Origin: M.G.L. c. 64H § 1

Estimate: \$121.8

3.600 MISCELLANEOUS EXEMPTIONS

3.601 Exemption for Casual or Isolated Sales

Casual or isolated sales (sales by private parties) are exempt from sales tax, except casual sales of motor vehicles, trailers, and boats. Sales of these listed items are exempt only when they are between family members.

Origin: M.G.L. c. 64H, § 6(c) and M.G.L. c. 64I, § 7(b)

Estimate: N.A.

3.602 Exemption for Vending Machine Sales

Vending machine sales of ten cents or less are exempt from sales tax. In addition, sales through vending machines, which exclusively sell snacks and candy with a sales price of less than one dollar, are exempt from the sales tax on meals.

Origin: M.G.L. c. 64H, § 6(h) and (t)

Estimate: N.A.

3.603 Exemption for Certain Meals

Meals prepared by churches and hospitals, meals provided to organizations for the elderly, and meals provided by educational institutions are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(cc)

Estimate: \$9.7

Comment: Estimate is for meals served in schools only.

3.604 Exemption for Certain Bed and Breakfast Establishments from Sales Tax on Meals and Room Occupancy Excise

Owner-occupied one-, two-, and three-bedroom bed and breakfast establishments are exempt from both the sales tax on meals and the room occupancy excise.

Origin: M.G.L. c. 64G, § 1, 2, 3, 3A and 6, and M.G.L. c. 64H, § 6(h)

Estimate: N.A.

- 3.605 Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise
 An exemption from both the sales tax on meals and the room occupancy excise is provided for summer camps for children age 18 and under, or for summer camps for developmentally disabled individuals. Camps that satisfy the above criteria but offer their facilities during the off-season to individuals 60 years of age or over for 30 days or less in any calendar year will not lose their exemption.
- Origin: M.G.L. c. 64G, § 2 and M.G.L. c. 64H, § 6(cc)
 Estimate: \$1.7
- Comment: Estimate is for meals only.
- 3.606 Exemption for Trade-in Allowances for Motor Vehicles and Trailers
 In most cases, motor vehicles and trailers bought in a trade-in transaction are only subject to sales tax on the excess of the purchase price over the amount credited for the trade-in.
- Origin: M.G.L c. 64H, § 26, c. 64I, § 27
 Estimate: \$95.2
- 3.607 Exemption for Publications of Tax-Exempt Organizations
 The publications of tax-exempt organizations are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(m)
 Estimate: \$13.8
- Comment: Data were available only for books published by tax-exempt organizations.
- 3.608 Exemption for Gifts of Scientific Equipment
 Gifts of scientific equipment or apparatus by manufacturers to non-profit educational institutions or to the Massachusetts Technology Park Corporation are exempt from sales tax.
- Origin: M.G.L. c. 64H, § 6(jj)
 Estimate: N.A.

FY2011 Governor's Budget Recommendation

- 3.609 Exemption for Vessels or Barges of 50 Tons or Over
Vessels or barges weighing 50 tons or more are exempt from sales tax when constructed in-state and sold by the builder.

Origin: M.G.L. c. 64H, § 6(o)
Estimate: N.A.

- 3.610 Exemption for Rental Charges for Refuse Containers
Rental charges in connection with service contracts by and between waste service firms and customers for refuse containers or bins are exempt from sales tax when the containers are placed on the customer's premises by waste service firms.

Origin: M.G.L. c. 64H, § 6(ii)
Estimate: N.A.

- 3.611 Exemption for Honor Trays
Food items purchased from honor trays are exempt from sales and meals taxes, provided that no item on the honor tray is sold for \$1 or more.

Origin: M.G.L. c. 64H, § 6(h)
Estimate: N.A.

Comment: Honor trays are vending carts in workplaces from which snacks may be purchased on the honor system.

KEY: **ORIGIN**
 M.G.L. Massachusetts General Laws
 ESTIMATES
 All estimates are in \$ millions.

Fiscal Year 2011 Tax Expenditure Budget – Appendix A

Recent Law Changes Affecting Tax Expenditures

The following tax expenditures have been revised or created due to recent law changes:

The Personal Income Tax:

Circuit Breaker Tax Credit Increased (see item 1.609) A credit is allowed to an owner or tenant of residential property located in Massachusetts equal to the amount by which the real estate tax payment or 25% of the rent constituting real estate tax payment exceeds 10% of the taxpayer's total income, not to exceed \$960. The amount of the credit is subject to limitations based on the taxpayer's total income and the assessed value of the real estate, which must not exceed \$788,000. For tax year 2009, an eligible taxpayer's total income cannot exceed \$51,000 in the case of a single filer who is not a head of household filer, \$64,000 for a head of household filer, and \$77,000 for joint filers. In order to qualify for the credit, a taxpayer must be age 65 or older and must occupy the property as his or her principal residence. See TIR 09-16 for more information.

Dairy Farmer Tax Credit (see item 1.614) The Massachusetts dairy farmer tax credit was established to offset the cyclical downturns in milk prices paid to dairy farmers and is based on the U.S. Federal Milk Marketing Order for the applicable market. A taxpayer who holds a certificate of registration as a dairy farmer pursuant to G.L. c. 94, s. 16A is allowed a refundable tax credit based on the amount of milk produced and sold. The dairy farmer tax credit as originally enacted was 90% refundable. Under recent legislation, the dairy farmer tax credit is now 100% refundable.

New Current Code Provisions

As a general rule, Massachusetts will not adopt any federal tax law changes incorporated into the Internal Revenue Code ("Code") after January 1, 2005. However, certain specific provisions of the personal income tax automatically adopt the current Code. Provisions of the Code adopted on a current Code basis are (i) Roth IRAs, (ii) IRAs, (iii) the exclusion for gain on the sale of a principal residence, (iv) trade or business expenses, (v) travel expenses, (vi) meals and entertainment expenses, (vii) the maximum deferral amount of government employees' deferred compensation plans, (viii) deduction for health insurance costs of self-employed, (ix) medical and dental expenses, (x) annuities, and (xi) health savings accounts. See TIRs 98-8, 02-11, and 07-4 for further details on Massachusetts' personal income tax current Code provisions.

New Exclusion Allowed

Temporary Increase in Earned Income Credit (1.605) For federal income tax purposes, the American Recovery and Reinvestment Act (ARRA) amends IRC sec. 32 to increase the earned income tax credit percentage for families with three or more qualifying children to 45% for 2009 and 2010. The ARRA also increases the threshold phase-out amounts for married couples filing joint returns to \$5,000 above the threshold phase-out amounts for singles, surviving spouses, and heads of household for 2009 and 2010. The Massachusetts earned income tax credit equals 15% of the federal earned income tax credit received by the taxpayer for the taxable year. Therefore, Massachusetts allows 15% of whatever the taxpayer receives federally under IRC sec. 32. The effect is that Massachusetts will allow a larger credit for 2009 and 2010 due to the ARRA and its increases to the federal earned income tax credit for those years.

Temporary Increase in Section 179 Expensing (1.305) Effective for the tax years beginning in 2009, for federal income tax purposes, the ARRA increased the IRC sec. 179 election to expense property in its initial year from \$133,000 to \$250,000. The federal Act also increased the sec. 179 overall investment limit from \$530,000 to \$800,000. Massachusetts adopts the increases in this expensing provision given sec. 179 is a trade or business expense deduction adopted by Massachusetts on a current Code basis.

New Deduction — Not Allowed

Federal "Bonus" Depreciation For federal income tax purposes, the ARRA provides for an additional depreciation deduction, under IRC sec. 168(k), in the placed-in-service year equal to 50% of the adjusted basis of "qualified

FY2011 Governor's Budget Recommendation

property." The property must be acquired after December 31, 2008 and before January 1, 2010. Under 2002 legislation, Massachusetts decoupled from bonus depreciation allowed under IRC sec. 168(k), as amended and in effect for the current year. Therefore, Massachusetts does not adopt this additional depreciation deduction. See TIRs 02-11 and 03-25 for further details.

Extended Deductions — Not Allowed

Massachusetts allows certain federal deductions based on the Internal Revenue Code as amended and in effect on January 1, 2005. Under the January 1, 2005 Code, certain federal deductions due to expire, have now been extended. Massachusetts will not adopt the extensions because they were enacted after January 1, 2005.

Tuition and Fees Deduction — IRC secs. 62(a)(18) and 222 The Emergency Economic Stabilization Act of 2008 extended the federal deduction for qualified higher education expenses to tax years 2008 and 2009.

Massachusetts will not adopt this extension because it was enacted after January 1, 2005. However, there is a separate Massachusetts deduction for undergraduate tuition if the total paid exceeds 25% of the taxpayer's Massachusetts adjusted gross income. See TIR 97-13 for additional information.

Educators Deduction — IRC sec. 62(a)(2)(D) The Emergency Economic Stabilization Act of 2008 extended the federal deduction for certain expenses paid by educators to tax years 2008 and 2009. Massachusetts will not adopt this extension because it was enacted after January 1, 2005.

Fiscal Year 2011 Tax Expenditure Budget – Appendix A

Recent Law Changes Affecting Tax Expenditures

Corporate Excise Tax:

Life Sciences Tax Incentive Program (see item 2.617): On June 16, 2008, "An Act Providing for the Investment in and Expansion of the Life Sciences Industry in the Commonwealth" (the Act) (St. 2008, c. 130) was passed. The Act establishes the Life Sciences Investment Program as well as the Life Sciences Tax Incentive Program pursuant to chapter 23I of the General Laws. See St. 2008, c. 130, § 13, codified at G.L. c. 23I, § 5(a), (d), respectively. It provides for a one billion dollar investment in the life sciences sector, including \$25 million each year for 10 years for the Massachusetts Life Sciences Investment Fund established by G.L. c. 23I, § 6 (subject to yearly appropriation by the Massachusetts Legislature), and \$25 million each year for 10 years in various tax incentives for qualifying life sciences companies on a competitive basis (subject to required authorizations by the Massachusetts Life Sciences Center and to approval by the Secretary of Administration and Finance). These incentives are effective from January 1, 2009 through December 31, 2018. St. 2008, c.130, §§ 52-54. The various tax incentives include the following: Life Sciences Investment Tax Credit (ITC), FDA User Fees Credit, Extension of Net Operating Losses (NOLs) from 5 to 15 years, Elimination of the Throwback Provision in the Sales Factor Used in Apportioning Corporate Income, Refundable Research Credit, Life Sciences Research Credit, Deduction for Qualified Clinical Testing Expenses for Orphan Drugs, Life Sciences Companies Deemed to be Research and Development Corporations for Sales Tax Purposes, Sales Tax Exemptions for Property for Use in the Development of Certain Facilities and Utility Systems.

For more information, see www.mass.gov/dor

The corporate tax reform provisions of An Act Relative to Tax Fairness and Business Competitiveness (the Act), signed into law by the Governor on July 3, 2008. St. 2008, c. 173.

For tax years beginning on or after January 1, 2009, the Act institutes *unitary combined reporting* for multi-state corporations and also adopts business entity classification rules that broadly conform to the federal "check-the-box" rules requiring companies to be classified as the same type of legal entity for state and federal tax purposes. The Act includes *corporate tax rate reductions* to be implemented over a period of years for business corporations, S corporations, financial institutions, and financial institutions that are S corporations.

A. *Business Corporations (other than S Corporations)*; G.L. c. 63, § 39

Computation. For tax years beginning on or after January 1, 2009, subject to the rate reduction schedule set out below, the corporate excise tax imposed on a business corporation is the greater of the amounts described in G.L. c. 63, § 39(a) or (b):

- (a) An amount equal to the sum of:
 - (1) \$2.60 per \$1,000 upon the value of (i) its tangible property as determined to be taxable under § 30(7) if a tangible property corporation; or (ii) its net worth as determined to be taxable under § 30(8) - (9) if an intangible property corporation; and
 - (2) 9.5 percent of its net income determined to be taxable under chapter 63.
- (b) \$456

Rate Reduction. The current net income measure of the corporate excise of 9.5 percent applicable to business corporations is reduced over three years[12] according to the following schedule:

For tax years beginning on or after January 1, 2010, but before January 1, 2011: 8.75%
 For tax years beginning on or after January 1, 2011, but before January 1, 2012: 8.25%
 For tax years beginning on or after January 1, 2012: 8.0%.

B. Subchapter S Corporations; G.L. c. 63, § 32D

Computation. Under current law, Massachusetts imposes an entity-level tax of 4.5 percent on the net income of any S corporation with total receipts of \$9 million or more, or 3 percent on such net income if total receipts are at least \$6 million but less than \$9 million (total receipts being determined on an aggregate basis in the case of certain unitary corporations). Section 32D only modifies the net-income measure of the corporate excise. In general, S corporations remain subject to the tangible property or net worth portion of the tax and to the \$456 minimum excise in the same manner as any other corporation subject to the corporate excise. In addition, the shareholders of an S corporation are subject to the personal income tax on their pro rata share of the S corporation's income.

Rate Reduction. Effective for taxable years beginning on or after January 1, 2009, an S corporation having \$9 million or more in total receipts is subject to tax on its net income at a rate equal to the regular business corporation (i.e., non-S corporation) rate on net income for the year minus the Part B personal income tax rate at G.L. c. 62, § 4(b) for the year. The net income tax rate for S corporations with at least \$6 million but less than \$9 million in total receipts will equal two-thirds of the tax rate applicable to larger S corporations. For tax years beginning on or after January 1, 2009 but before January 1, 2010, application of the statutory formula yields the following rates on net income of an S corporation:

- (1) if total receipts for the taxable year are at least \$6,000,000 but less than \$9,000,000,
 $\frac{2}{3} \times 4.2\% = 2.8\%$; and
- (2) if total receipts for the taxable year are \$9,000,000 or more,
 $9.5\% - 5.3\% = 4.2\%$

C. Financial Institutions (other than S Corporations); G.L. c. 63, § 2

Computation. For tax years beginning on or after January 1, 1995, but before January 1, 2010, the financial institution excise rate is 10.5 percent of net income. A minimum excise of \$456 applies.

Rate Reduction. The current financial institution excise rate of 10.5 percent of net income is reduced over three years according to the following schedule:

For tax years beginning on or after January 1, 2010, but before January 1, 2011: 10.0%
 For tax years beginning on or after January 1, 2011, but before January 1, 2012: 9.5%
 For tax years beginning on or after January 1, 2012: 9.0%.

See this link for other changes:

[http://www.mass.gov/?pageID=dorterminal&L=7&L0=Home&L1=Businesses&L2=Help+%26+Resource&L3=Legal+Library&L4=Technical+Information+Releases&L5=TIRs+-+By+Year\(s\)&L6=2008+Releases&sid=Ador&b=terminalcontent&f=dor_rul_reg_tir_tir_08_11&csid=Ador_r](http://www.mass.gov/?pageID=dorterminal&L=7&L0=Home&L1=Businesses&L2=Help+%26+Resource&L3=Legal+Library&L4=Technical+Information+Releases&L5=TIRs+-+By+Year(s)&L6=2008+Releases&sid=Ador&b=terminalcontent&f=dor_rul_reg_tir_tir_08_11&csid=Ador_r)

The Sales and Use Tax:

FY2011 Governor's Budget Recommendation

In June 2009 legislation was enacted that amended c. 64H (sales tax) and c. 64I (use tax), changing the rate of tax for sales and use of tangible personal property and telecommunications services from 5% to 6.25%. See Stat. 2009, c. 27, §§ 53, 55-57, 59. In addition, the new legislation repealed the exemption for alcoholic beverages, including beer, wine, and liquor, sold at retail by amending G.L. c. 64H, § 6(g) to omit reference to c. 138. These changes were effective on and after August 1, 2009. The estimates for TEB items for sales and use tax reflects these tax law changes. See TIR 09-11 for further details.

Fiscal Year 2011 Tax Expenditure Budget: Appendix B Summary Table:

The following table shows tax expenditure estimates for the three major taxes from Fiscal Year 2009 to Fiscal Year 2011. In general, the revenue estimate for a tax expenditure tends to follow the anticipated growth of tax collections. However, year-to-year changes in estimates may vary for four other principal reasons: new data sources; refinements to the estimate methodology; changes to federal tax expenditure estimates which are used as the basis for many of the state tax expenditure estimates; and changes in tax laws.

Where possible, we have recalculated past estimates based on revised data, improved methodologies, and changes in statute.

		Fiscal Year Estimates (in \$ millions)		
Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
PERSONAL INCOME TAX				
Exclusions from Gross Income				
Exemption of Premiums on Accident and Accidental Death Insurance	1.001	19.1	19.7	20.8
Exemption of Premiums on Group-Term Life Insurance	1.002	17.2	17.2	17.1
Exemption of Interest on Life Insurance Policy and Annuity Cash Value	1.003	224.3	230.0	235.7
Exemption of Employer Contributions for Medical Insurance Premiums and Medical Care	1.004	811.5	871.2	916.0
Exemption of Annuity or Pension Payments to Firemen and Policemen	1.005	NA	NA	NA
Exemption of Distributions from Certain Contributory Pension and Annuity Plans	1.006	NA	NA	NA
Exemption of Railroad Retirement Benefits	1.007	4.0	4.0	4.1

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

Tax Expenditure	Item Number	Fiscal Year Estimates (in \$ millions)		
		FY2009 ¹	FY2010 ¹	FY2011
Exemption of Public Assistance Benefits	1.008	137.9	145.3	153.1
Exemption of Social Security Benefits	1.009	699.2	733.3	769.0
Exemption of Workers' Compensation Benefits	1.010	6.7	6.8	7.3
Exemption of Dependent Care Expenses	1.011	7.2	7.2	6.8
Exemption of Certain Foster Care Payments	1.012	5.2	5.9	5.9
Exemption of Payments Made to Coal Miners	1.013	Negligible	Negligible	Negligible
Exemption of Rental Value of Parsonages	1.014	4.0	4.6	4.6
Exemption of Scholarships and Fellowships	1.015	16.8	17.6	18.4
Exclusion of Certain Prizes and Awards	1.016	NA	NA	NA
Exemption of Cost-Sharing Payments	1.017	Negligible	Negligible	Negligible
Exemption of Meals and Lodging Provided at Work	1.018	6.4	6.4	6.3
Treatment of Business-Related Entertainment Expenses	1.019	NA	NA	NA
Exemption of Income from the Sale, Lease or Transfer of Certain Patents	1.020	NA	NA	NA
Exemption of Capital Gains on Home Sales (formerly only for Persons 55 and Over)	1.021	192.0	220.2	248.1
Nontaxation of Capital Gains at Death	1.022	222.6	288.3	325.8
Exemption of Interest from Massachusetts Obligations	1.023	127.2	129.7	137.0

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

Tax Expenditure Budget

Fiscal Year Estimates (in \$ millions)

Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
Exemption of Benefits and Allowances to Armed Forces Personnel	1.024	12.8	13.5	14.4
Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits	1.025	20.2	22.1	24.4
Exemption of Military Disability Pensions	1.026	0.6	0.6	0.6
Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel	1.027	5.7	5.9	6.1
Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity	1.028	NA	NA	NA
Exemption of Retirement Pay of the Uniformed Services	1.029	21.0	21.3	22.1
Exemption of Gross Income of Parking, T-Pass and Vanpool Fringe benefits	1.030	31.5	33.1	37.4
Exemption of Health Savings Accounts	1.031	Included in 1.422	Included in 1.422	Included in 1.422
Exemption of Employer-Provided Adoption Assistance	1.032	2.5	2.5	0.6
Exemption of Employer-Provided Education Assistance	1.033	8.0	8.9	8.8
Qualified Retirement Planning Services	1.034	NA	NA	NA
DoD Homeowners Assistance Plan	1.035	NA	NA	NA
Survivor Annuities of Fallen Public Safety Officers	1.036	NA	NA	NA
Survivor Annuities of Fallen Astronauts	1.037	NA	NA	NA
Discharge of Indebtedness for Victims of Terrorism	1.038	NA	NA	NA

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

Fiscal Year Estimates (in \$ millions)

Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
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FY2011 Governor's Budget Recommendation

Discharge of Indebtedness for Health Care Professionals	1.039	Negligible	Negligible	Negligible
Archer Medical Savings Accounts (exemption)	1.040	Included in 1.420	Included in 1.420	Included in 1.420

Deferrals of Gross Income

Net Exemption of Employer Contributions and Earnings of Private Pension Plans	1.101	624.2	705.1	760.6
Treatment of Incentive Stock Options	1.102	N.A.	N.A.	N.A.
Exemption of Earnings on Stock Bonus Plans or Profit Sharing Trusts	1.103	N.A.	N.A.	N.A.
Exemption of Earnings on IRA and Keogh Plans	1.104	233.6	287.1	313.6
Deferral of Capital Gains on Home Sales	1.105	N.A.	N.A.	N.A.
Nontaxation of Capital Gains at Time of Gift	1.106	23.6	30.6	34.5

Deductions from Gross Income

Capital Gains Deduction	1.201	N.A.	N.A.	N.A.
Deduction of Capital Losses against Interest and Dividend Income	1.202	N.A.	N.A.	N.A.
Excess Natural Resource Depletion Allowance	1.203	0.6	0.6	0.6
Abandoned Building Renovation Deduction	1.204	3.7	3.9	4.0

Accelerated Deductions from Gross Income

Accelerated Depreciation on Rental Housing	1.301	23.8	28.8	30.3
Accelerated Depreciation on Rehabilitation of Low Income Housing	1.302	N.A.	N.A.	N.A.
Accelerated Depreciation on Buildings (other than Rental Housing)	1.303	4.7	5.0	5.3
Accelerated Cost Recovery System (ACRS) for Equipment	1.304	50.2	58.8	65.5

**Fiscal Year 2011 Tax Expenditure Budget – Appendix B
Summary Table**

Fiscal Year Estimates (in \$ millions)				
Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
Deduction for Excess First-Year Depreciation	1.305	22.0	17.2	17.7
Five-Year Amortization of Start-Up Cost	1.306	4.5	4.5	5.0

Tax Expenditure Budget

Five-Year Amortization of Certain Operating Rights	1.307	N.A.	N.A.	N.A.
Expensing of Exploration and Development Costs	1.308	Negligible	Negligible	Negligible
Expensing of Research and Development Expenditures in One Year	1.309	1.2	1.2	1.2
Five-Year Amortization of Pollution Control Facilities	1.310	N.A.	N.A.	N.A.
Seven Year Amortization for Reforestation	1.311	N.A.	N.A.	N.A.
Expensing of Certain Capital Outlays of Farmers	1.312	0.3	0.3	0.3

Deductions from Adjusted Gross Income

		294.1	296.0	298.2
Deduction for Employee Social Security and Railroad Retirement Payments	1.401			
	1.402	N.A.	N.A.	N.A.
Deduction for Employee Contributions to Public Pension Plans				
Additional Exemption for the Elderly	1.403	24.4	25.0	25.7
Additional Exemption for the Blind	1.404	1.2	1.2	1.3
Dependents Exemption where the Child Earns Income	1.405	N.A.	N.A.	N.A.
Deduction for Dependent Under 12	1.406	138.5	138.6	138.9
Personal Exemption for Students Aged 19 or Over	1.407	9.0	9.2	9.3
Deduction for Adoption Fees	1.408	0.7	0.8	0.8

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

		Fiscal Year Estimates (in \$ millions)		
Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
Deduction for Business-Related Child Care Expenses	1.409	14.5	14.9	15.3
Exemption of Medical Expenses	1.410	64.7	68.1	71.1
Rent Deduction	1.411	111.4	114.3	117.3
Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators	1.412	N.A.	N.A.	N.A.
Exemption of Interest on Savings in Massachusetts Banks	1.413	7.0	7.4	7.9
Tuition and Student Loan Interest Deduction	1.414	30.6	35.7	41.6
Charitable Contributions Tax Deduction	1.415	N.A.	N.A.	N.A.
Educators Deduction	1.416	Expired	Expired	Expired
Home Heating Deduction	1.417	Expired	Expired	Expired
Deduction for Cost Involved in Unlawful Discrimination Suit	1.418	N.A.	N.A.	N.A.
Business Expenses of National Guard and Reserve Members	1.419	Negligible	Negligible	Negligible
Archer Medical Savings Accounts (deduction)	1.420	Negligible	Negligible	Negligible
Clean-Fuel Vehicles and Certain Refueling Properties	1.421	Negligible	Negligible	Negligible
Health Savings Accounts	1.422	5.6	5.7	9.6
Commuter Deduction (New)	1.423	5.8	6.3	6.5
Self-Employed Health Insurance Deduction	1.424	43.3	49.3	56.0
Student Loan Interest Deduction	1.425	17.0	19.0	21.3
Credits Against Tax				
Renewable Energy Source Credit	1.601	1.3	1.3	1.3

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

Tax Expenditure Budget

Fiscal Year Estimates (in \$ millions)

Tax Expenditure	Item Number	FY2009¹	FY2009¹	FY2011
Credit for Removal of Lead Paint	1.602	2.7	2.6	2.5
Economic Opportunity Area Credit	1.603	3.1	3.1	3.1
Credit for Employing Former Full-Employment Program Participants	1.604	0.1	0.1	0.1
Earned Income Credit	1.605	96.7	98.7	94.5
Septic System Repair Credit	1.606	17.5	17.9	18.5
Low Income Housing Tax Credit	1.607	0.8	1.0	1.0
Brownfield's Credit	1.608	0.9	0.9	0.9
Refundable Credit Against Property Tax for Seniors ("Circuit Breaker")	1.609	51.1	56.7	60.3
Historic Buildings Rehabilitation Credit	1.610	2.5	2.5	2.5
Film (or Motion Picture) Credit	1.611	3.6	4.3	1.6
Home Energy Efficiency Credits	1.612	Expired	Expired	Expired
Medical Device Credit	1.613	0.3	0.3	0.4
Dairy Farmer Tax Credit Program	1.614	1.8	1.8	1.8
Income Subtotal ²		4,546.0	4,940.7	5,238.5

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

		Fiscal Year Estimates (in \$ millions)		
<i>Tax Expenditure</i>	Item Number	FY2009¹	FY2010¹	FY2011
CORPORATE EXCISE				
Exclusions from Gross Income				
Small Business Corporations	2.001	60.7	59.2	58.6
Exemption of Income from the Sale, Lease or Transfer of Certain Patents	2.002	N.A.	N.A.	N.A.
Deferrals of Gross Income				
Deferral of Tax on Certain Shipping Companies	2.101	0.1	0.1	0.1
Deductions from Gross Income				
Charitable Deduction	2.201	85.0	85.5	88.2
Net Operating Loss (NOL) Carryover	2.203	96.2	94.8	90.4
Excess Natural Resource Depletion Allowance	2.204	0.0	0.0	0.0
Deduction for Certain Dividends of Cooperatives	2.205	N.A.	N.A.	N.A.
Abandoned Building Renovation Deduction	2.206	0.1	0.1	0.1
Accelerated Deductions from Gross Income				
Accelerated Depreciation on Rental Housing	2.301	3.3	3.1	2.9
Accelerated Depreciation for Rehabilitation of Low-Income Housing	2.302	N.A.	N.A.	N.A.
Expensing for Removal of Barriers to the Handicapped	2.303	0.3	0.3	0.2
Five-Year Amortization of Start-Up Cost	2.304	0.3	0.3	0.3
Accelerated Cost Recovery System (ACRS) for Equipment	2.305	218.2	201.0	189.5
Deduction for Excess First-Year Depreciation	2.306	0.7	0.6	0.6
Accelerated Depreciation on Buildings (other than Rental Housing)	2.307	11.4	10.5	6.4

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

Tax Expenditure Budget

Fiscal Year Estimates (in \$ millions)

Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
Expensing Research and Development Expenditures in One Year	2.308	65.9	70.9	79.9
Expensing of Exploration and Development Costs	2.309	0.6	1.2	1.6
Five-Year Amortization of Certain Operating Rights	2.310	N.A.	N.A.	N.A.
Five-Year Amortization of Pollution Control Facilities	2.311	N.A.	N.A.	N.A.
Expensing of Certain Expenditures for Alternative Energy Sources	2.312	2.6	2.8	2.9
Seven-Year Amortization for Reforestation	2.313	N.A.	N.A.	N.A.
Adjustments to Apportionment Formula				
Unequal Weighting of Sales, Payroll, and Property in Apportionment Formula	2.401	310.4	307.9	318.5
Exclusions from Property Component				
Nontaxation of Certain Energy Property	2.501	N.A.	N.A.	N.A.
Exemption for Property Subject to Local Taxation	2.502	143.8	131.0	135.7
Credits Against Tax				
Investment Tax Credit	2.602	45.3	45.6	47.0
Vanpool Credit	2.603	0.1	0.1	0.1
Research Credit	2.604	69.3	69.7	71.8
Economic Opportunity Area Credit	2.605	14.0	14.1	14.6
Credit for Employing Former Full-Employment Program Participants	2.606	Negligible	Negligible	Negligible
Credit for Harbor Maintenance Taxes Paid	2.607	1.3	1.3	1.3

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

		Fiscal Year Estimates (in \$ millions)		
Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
Brownfield's Credit	2.608	2.7	2.7	2.8
Low Income Housing Credit	2.609	1.7	1.8	1.8
Historic Buildings Rehabilitation Credit	2.610	21.3	21.3	21.3
Jobs Incentive Payment for Biotechnology and Medical Device Companies	2.611	Negligible	Negligible	Negligible
Solar Heat Credit	2.612	Expired	Expired	Expired
Home Energy Efficiency Credit	2.613	Expired	Expired	Expired
Film (or Motion Picture) Credit	2.614	22.2	26.2	10.1
Medical Device-User Fee Credit	2.615	3.1	3.1	3.2
Devens Refundable Tax Credit	2.616	11.2	10.5	6.0
Life Sciences Tax Incentive Program	2.617	0.0	5.0	20.0
Dairy Farmer Tax Credit Program	2.618	1.8	1.8	1.8
Entity Exempt from Taxation				
Exemption of Credit Union Income	2.701	6.2	4.2	3.4
Tax-Exempt Organizations	2.702	N.A.	N.A.	N.A.
Exemption for Regulated Investment Companies	2.703	N.A.	N.A.	N.A.
Corporate Subtotal²		1,199.9	1,176.5	1,180.9

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

		Fiscal Year Estimates (in \$ millions)		
Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
SALES AND USE TAX				
Exempt Entities				
Exemption for Sales to the Federal Government	3.001	N.A.	N.A.	N.A.
Exemption for Sales to the Commonwealth	3.002	N.A.	N.A.	N.A.
Exemption for Sales to Tax-Exempt Organizations	3.003	289.9	358.8	378.2
Exemption for Sales of Tangible Personal Property to Motion Picture Production Companies	3.004	0.3	0.4	0.5
Exempt Products/Services				
Exemption for Food	3.101	503.2	612.1	587.6
Exemption for Certain Food and Beverages Sold in Restaurants	3.102	N.A.	N.A.	N.A.
Exemption for Clothing	3.103	209.8	256.1	268.7
Exemption for Medical and Dental Supplies and Devices	3.104	305.8	386.1	419.2
Exemption for Water	3.105	33.1	40.2	42.7
Exemption for Newspapers and Magazines	3.106	29.2	34.9	35.9
Exemption for the American Flag	3.107	N.A.	N.A.	N.A.
Exemption for Certain Precious Metals	3.108	N.A.	N.A.	N.A.
Exemption for Cement Mixers	3.109	N.A.	N.A.	N.A.
Exemption for Aircraft and Aircraft Parts	3.112	10.6	12.6	8.1
Exempt, Taxed Under Another Excise				
Exemption for Alcoholic Beverages	3.201	92.2	15.3	0.0
Exemption for Motor Fuels	3.202	412.2	467.7	570.7
Exemption for Room Rentals	3.203	112.9	126.1	130.0

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

FY2011 Governor's Budget Recommendation
Fiscal Year Estimates (in \$ millions)

Tax Expenditure	Item Number	FY2009¹	FY2010¹	FY2011
Exempt Component of a Product or Consumed in Production				
Exemption for Items Used in Making Clothing	3.301	N.A.	N.A.	N.A.
Exemption for Materials, Tools, Fuels, and Machinery Used in Manufacturing	3.302	N.A.	N.A.	N.A.
Exemption for Materials, Tools, Fuels, and Machinery Used in Research and Development	3.303	63.2	79.4	85.4
Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power	3.304	141.1	152.6	173.1
Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing	3.306	47.8	58.1	61.5
Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production	3.308	8.2	10.0	10.4
Exemption for Vessels, Materials, Tools, Fuels, and Machinery Used in Commercial Fishing	3.309	6.7	8.3	8.8
Exemption for Materials, Tools, Fuels, and Machinery Used in Radio and TV Broadcasting	3.310	N.A.	N.A.	N.A.

Exemptions for Specified Uses of Products/Services

Exemption for Electricity	3.401	237.1	286.1	308.0
Exemption for Fuel Used for Heating Purposes	3.402	78.4	80.7	83.4
Exemption for Piped and Bottled Gas	3.403	157.5	164.1	173.7
Exemption for Steam	3.404	11.5	13.9	14.4
Exemption for Certain Energy Conservation Equipment	3.405	N.A.	N.A.	N.A.
Exemption for Funeral Items	3.406	9.4	11.4	11.9

**Fiscal Year 2011 Tax Expenditure Budget – Appendix B
Summary Table**
Fiscal Year Estimates (in \$ millions)

Tax Expenditure	Item Number	FY2009¹	FY2010¹	FY2011
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Tax Expenditure Budget

Exemption for a Motor Vehicle for a Paraplegic	3.407	0.9	1.1	1.2
Exemption for Textbooks	3.408	17.1	21.5	23.2
Exemption for Books used for Religious Worship	3.409	N.A.	N.A.	N.A.
Exemption for Containers	3.410	121.8	151.1	159.1
Exemption for Certain Sales by Typographers, Compositors and Color Separators	3.411	N.A.	N.A.	N.A.
Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts	3.412	114.7	131.4	138.4
Exemption for Commuter Boats	3.417	N.A.	N.A.	N.A.
Exemption for Fuels, Supplies, and Repairs for Vessels Engaged in Interstate or Foreign Commerce	3.418	0.5	0.6	0.6
Exemption for Fuel Used in Operating Aircraft and Railroads	3.419	40.5	36.1	40.3
Exemption for Sales of Certain New and Used Buses	3.420	N.A.	N.A.	N.A.
Exemption for Films	3.421	N.A.	N.A.	N.A.
Exemption for Telephone Services	3.422	36.4	43.8	45.5

Exempt, Not Taxable as Tangible Personal Property

		1,533.4	1787.9	2044.9
Nontaxation of Transfers of Real Property	3.501			
Nontaxation of Rentals of Real Property	3.502	1108.2	1384.4	1,460.7
Nontaxation of Certain Services	3.503	7,209.4	8,652.8	9,106.8

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

		Fiscal Year Estimates (in \$ millions)		
Tax Expenditure	Item Number	FY2009 ¹	FY2010 ¹	FY2011
Nontaxation of Internet Access and Related Services	3.504	96.7	115.2	121.8
Miscellaneous Exemptions				
Exemption for Casual or Isolated Sales	3.601	N.A.	N.A.	N.A.
Exemption for Vending Machine Sales	3.602	N.A.	N.A.	N.A.
Exemption for Certain Meals	3.603	7.3	9.1	9.7
Exemption for Certain Bed and Breakfast Establishments from Sales Tax on Meals and Room Occupancy Excise	3.604	N.A.	N.A.	N.A.
Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise	3.605	1.4	1.6	1.7
Exemption for Trade-in Allowances for Motor Vehicles and Trailers	3.606	74.3	89.9	95.2
Exemptions for Publications of Tax-Exempt Organizations	3.607	10.6	13.1	13.8
Exemption for Gifts of Scientific Equipment	3.608	N.A.	N.A.	N.A.
Exemption for Vessels or Barges 50 Tons and Over	3.609	N.A.	N.A.	N.A.
Exemption for Rental Charges for Refuse Containers	3.610	N.A.	N.A.	N.A.
Exemption for Honor Trays	3.611	N.A.	N.A.	N.A.
Sales Subtotal²		13,133.3	15,614.6	16,635.0

Fiscal Year 2011 Tax Expenditure Budget – Appendix B Summary Table

Fiscal Year Estimates (in \$ millions)

Tax Expenditure Budget

Tax Expenditure	Item Number	FY2009¹	FY2010¹	FY2011
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GRAND TOTAL		18,879.2	21,731.8	23,054.4
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ENDNOTES:

¹ Estimates may have been revised because of new data or improved methodology, and reflect current tax law.

² Subtotals and totals have been provided to give an idea of the revenue costs of tax expenditures by tax and in total. However, these sums should be used with extreme caution. The underlying estimates do not take into account such factors as the interaction of tax expenditures and taxpayer behavior. Also it should be noted that many estimates are not available due to a lack of data. These estimates are shown as N.A. and are not included in the subtotals and totals.

Fiscal Year 2011 Tax Expenditure Budget – Appendix C

Glossary

Amortization: Annual deduction allowed for the gradual exhaustion or obsolescence of intangible assets having a limited useful life which are used in the production of income, such as patents and copyrights; analogous to depreciation of tangible assets.

Capital Expenditure: An expenditure made in acquiring, adding to or bettering a fixed asset. For accounting purposes, capital expenditures are not charged against current revenue. They are added to capital account or "capitalized" and then may be depreciated; amortized, or recovered when a business is sold. This concept should be distinguished from an expense.

Credit: Amount by which a taxpayer is allowed to reduce a tax liability, as computed by applying the tax rates to the tax base, to be distinguished from a deduction from the tax base.

Deduction: Amount that a taxpayer is allowed to subtract from the gross tax base.

Depreciation: Annual deduction allowed for the gradual exhaustion or obsolescence of tangible property used in the production of income.

Exclusion: The legal elimination from the tax base of items recognized as falling within its definition. The federal term for what is sometimes called an exemption for Massachusetts. (See below.)

Exemption: The legal elimination from the tax base of items or transactions recognized as falling within its definition, or of taxable units that would normally be subject to tax.

Expense: A revenue expenditure or cost, which, for accounting purposes, is charged against current revenue. To be distinguished from a capital expenditure.

Gross income: The total of all items included in the concept of income that a taxpayer receives during the taxable period.

Net income: Amount remaining after subtracting exempt income and deductions from gross income.

Personal exemption: A specific amount or percentage of net income on which the tax rate is zero. To be distinguished from an exemption as defined above, which applies to a class of income or taxpayers. Sometimes called an "allowance".

Taxable income: Amount to which the tax rates are applied in computing tax liability, after subtracting personal exemptions from net income.